

sions for attorneys bringing suits; and to fix venue for such suits."

And fine the same correctly engrossed.

COFER, Chairman.

PETITIONS AND MEMORIALS.

By Senators Adams, Greer, Johnson, Ratliff, Peeler and Ward:

Petitions numerous signed by citizens of their districts protesting against the passage of House bill No. 319, which seeks to regulate the itinerant vending of medicine.

By Senator Perkins:

Petition numerous signed by citizens of his district requesting the Legislature to sanction the proposed sale of the Denison and Sherman Railway Company to the Texas Traction Company.

By Senator Perkins:

Petition numerous signed by citizens of his district asking support of legislation prohibiting the emptying of sewage into creeks, rivers and streams of Texas.

By President of the Senate:

Telegram from the Retail Dealers Hardware and Implement Association of Houston urging passage of House bill No. 75 repealing the pistol law. Also protesting against passage of House bill No. 285.

By Senator McNealus:

Communication transmitting the following resolution adopted by the Democratic County Convention of Rockwall county, July, 1910:

"Be it resolved, that it is the sense of this convention that we be not placed in the same Senatorial or Floatorial District with Dallas county and that our State Senator and Floater be instructed to use their vote and influence in the next Legislature to see that we are not so placed with Dallas county; that a copy of this resolution be sent to the proper committee in Legislature and also be furnished our members from Dallas county."

By Senator Adams:

Petition numerous signed asking support of the following Farmers' Union measures:

House bill No. 99 and Senate bill No. 23; House bill No. 32, and Senate bill No. 46; House bill No. 124, and Senate bill No. 82; also bill providing

for teaching cotton classing in the public schools.

By Senator Weinert:

Petition numerous signed by citizens of his district, asking a law providing more adequate protection of cotton growers and ginnerers in the sale and marketing of cotton.

By Senator Townsend:

Petition from the Cherokee Farmers' Union asking better protection of birds and urging against the passage of laws extending the open season for bird slaughter.

By Senator Peeler:

Communication signed by officers of the Taylor Farmers Institute transmitting copy of resolution adopted asking the Legislature to enact a pure seed law.

By Senator Paulus:

Petition numerous signed by citizens of Shiner asking support of an effort to empower the Railroad Commission to grant reduced rates to volunteer firemen while attending their conventions.

By Senator Johnson:

Petition numerous signed by citizens of Childress protesting against enactment of Senate bill No. 75, relating to the practice of optometry.

TWENTY-FOURTH DAY.

Senate Chamber,

Austin, Texas,

Thursday, Feb. 16, 1911.

The Senate met pursuant to adjournment, and was called to order by Lieutenant Governor Davidson.

Roll called, quorum being present, the following Senators answering to their names:

Adams.	McNealus.
Astin.	Meachum.
Bryan.	Murray.
Carter.	Paulus.
Cofer.	Peeler.
Collins.	Perkins.
Greer.	Ratliff.
Hudspeth.	Real.
Hume.	Terrell, McLennan.
Johnson.	Terrell, Wise.
Kauffman.	Townsend.
Lattimore.	Vaughan.
Mayfield.	Ward.

Warren.
Watson.

Weinert.
Willacy.

Absent.

Sturgeon.

Prayer by Rev. Dr. Bradfield of Austin.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins the same was dispensed with.

REGULAR ORDER.

The regular order of business was called (see Appendix for "Committee Reports" and "Petitions and Memorials.")

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills:

House bill No. 244, referred to Committee on Public Health.

House bill No. 291, referred to Judiciary Committee No. 2.

SPECIAL COMMITTEE REPORT.

Austin, Texas, Feb. 15, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Special Committee, who were appointed to examine the condition of the books and papers deposited in the State Library by Mrs. John H. Reagan, in pursuance of the Act of the Thirty-first Legislature, approved March 20, 1909, beg leave to report that they have carefully inspected said books and papers and respectfully recommend that the State Librarian be directed to accept said papers on behalf of the State.

CARTER,
WILLACY,
ADAMS.

The above special committee report was read and adopted.

BILLS AND RESOLUTIONS.

By Senator Perkins:

Senate bill No. 262, A bill to be entitled "An Act to establish and maintain an Agricultural, Mechanical and Industrial College of the secondary grade, and to locate the same at Greenville; providing for the appointment of a Board of Trustees to man-

age and control the same; and to make an appropriation therefor."

Read first time and referred to Committee on Agricultural Affairs.

By Senator Vaughan:

Senate bill No. 263, A bill to be entitled "An Act to authorize cities, acting under special charters granted by the Legislature of the State of Texas, to carry out existing contracts or make contracts with railway companies, to erect and complete viaducts, to abolish and close portions of streets crossed by railroad tracks; to issue viaduct bonds not to exceed ten thousand dollars (\$10,000.00); to pay for right of way for viaducts and damages, if any; to abutting property owners and to give to such cities the right of eminent domain and power to condemn all land necessary for right of way for viaducts, and to confer authority upon such cities to compel railway companies to comply with contracts to construct and complete viaducts and to declare an emergency."

Read first time and referred to Committee on Towns and City Corporations.

By Senator Carter:

Senate bill No. 264, A bill to be entitled "An Act to provide for the establishment and maintenance of an Agricultural Experimental Station at some point on cut over lands in the Second Congressional district of this State; and providing that the location shall be determined by the Board of Directors of the Agricultural and Mechanical College; making the necessary appropriation therefor; providing for co-operation with the Federal Department of Agriculture, and declaring an emergency."

Read first time and referred to Committee on Agricultural Affairs.

By Senator Adams:

Senate bill No. 265, A bill to be entitled "An Act authorizing the formation of corporations for the purpose of generating, manufacturing, transporting and selling gas, electric current and power in this State, and to make reasonable charges therefor; to construct, maintain and operate power plants and substations and such machinery, apparatus, pipes, poles, wires, devices and arrangements as may be necessary to operate such lines at and between different

points in this State, and to own, hold and use lands, rights of way, easements, franchises, building and structures necessary for the purpose with the right to enter upon, condemn and appropriate lands, rights of way, easements and property of any person or corporation and erect lines over and across public roads, railroads, interurban and street railroads, canals or streams in this State, and streets and alleys of any incorporated city or town, with the consent and under the direction of the governing board of such city or town, all in the same manner as is provided by law in the case of railroads, pipe lines, telephone and telegraph lines; and providing for the manner of construction; also giving the right to borrow money, issue stock and preferred stock, to mortgage its franchises and property; to secure the payments of debts contracted for the purposes of the corporation; and, further, making it unlawful for such corporation to discriminate against any person, corporation, firm or association or place in the charges for such gas, electric current or power or the services rendered under similar and like circumstances.

Read first time and referred to Committee on Internal Improvements.

By Senator Ward:

Senate bill No. 266, A bill to be entitled "An Act to create a special road system for Ellis county, Texas, and declaring an emergency."

Read first time and referred to Committee on Roads, Bridges and Ferries.

By Senator Kauffman:

Senate bill No. 267, A bill to be entitled "An Act to amend Chapter 42, of the Regular Session of the Twenty-ninth Session of the Legislature of the State of Texas, entitled 'An Act to prohibit the granting or use for railway or other purposes of any part of the tract of land in the city of Galveston, county of Galveston, Texas, acquired by that county, or of the county commissioners court thereof, for seawall purposes; by adding thereto Section 4, providing that after January 1, 1912, the county of Galveston may lease or sell right of way on bid after 15 days advertisement thereof, in the daily newspapers in the county of Galves-

ton, for an electric or other passenger railroad, other than steam, over and along said seawall tract of land, said lease or sale of right of way to only become operative after submission to and approval of taxpaying voters of said county voting at election to be held, all expenses of election to be paid by the lessee or purchaser.

Read first time and referred to Committee on Internal Improvements.

By Senator Hudspeth:

Senate bill No. 268, A bill to be entitled "An Act to create a more efficient road system for Terrell county, Texas, and declaring an emergency."

Read first time and referred to Committee on Roads, Bridges and Ferries.

SENATE CONCURRENT RESOLUTION NO. 14.

By Senators Meachum and Watson:
Senate Concurrent Resolution No. 14.

Whereas, The Honorable Theodore Roosevelt, ex-President of the United States of America, will pass through Austin on the thirteenth day of March, A. D. 1911; and,

Whereas, The Legislature and the officials of the State of Texas are desirous of extending all proper courtesies to the distinguished visitor, and are desirous of having him address a joint session of the Legislature; therefore,

Be it Resolved by the Senate of Texas the House of Representatives concurring, that ex-President Roosevelt be invited to address a joint session of the Legislature when he passes through Austin on or about the thirteenth day of March, at such time as may suit his convenience, and that a committee of two members of the Senate, to be appointed by the President of the Senate, and three members of the House, to be appointed by the Speaker of the House of Representatives, shall, together with the Lieutenant Governor and the Speaker of the House, constitute a committee to receive ex-President Roosevelt, and to make all necessary arrangements for his proper entertainment while at the State Capitol.

Resolved, further, that a copy of this resolution be transmitted forthwith to ex-President Roosevelt for his consideration.

The above resolution was read and adopted.

SENATE CONCURRENT RESOLUTION NO. 15.

By Senator Warren:

Resolved by the Senate, the House of Representatives concurring, that Hon. Woodrow Wilson of New Jersey, a worthy and brilliant son of the South, recently elevated to the executive office of his State, and one of the greatest Democrats in the nation, upon whom millions of Democrats are depending for national leadership, be invited to address the Legislature in joint session at such time during the present session as may be convenient to him;

That a copy of the resolution, signed by the officers of the Senate and House, respectively, be telegraphed to Governor Wilson for his consideration.

Warren, Lattimore, Collins, McNealus, Carter, Perkins, Johnson, Hudspeth, Mayfield, Willacy, Astin, Kauffman, Terrell of McLennan, Watson, Peeler, Paulus, Terrell of Wise, Cofer, Greer, Vaughan, Ward, Bryan.

The resolution was read and adopted.

SIMPLE RESOLUTION.

By Senator Lattimore:

Be it Resolved, That beginning Monday night, February 20, A. D. 1911, the State Senate of the State of Texas shall hold night sessions, beginning at 8 o'clock p. m., and lasting till 10:30 o'clock p. m. of that same night or so near said hour of adjournment as possible—on Monday, Tuesday and Thursday nights of each week—at which session the roll of Senators shall be called by the numbers of their desks, beginning at No. 1, and as such Senator's name is called he shall have the privilege of calling up for consideration one bill which shall be pending business until disposed of; in order that more time may be given to the dispatch of business; and that each Senator may have equal opportunity to present his bills for consideration, and that the committees may have three nights each week in which to grant hearings to parties desiring to appear before them.

(President Pro Tem. Hudspeth in the chair.)

The resolution was read, and Senator Meachum moved that the resolution be laid on the table.

The motion to lay the resolution on the table was lost by the following vote:

Yeas—14.

Adams.	Murray.
Astin.	Peeler.
Greer.	Perkins.
Hudspeth.	Terrell, McLennan.
Hume.	Watson.
Kauffman.	Weinert.
Meachum.	Willacy.

Nays—15.

Bryan.	Paulus.
Carter.	Ratliff.
Cofer.	Terrell, Wise.
Collins.	Townsend.
Johnson.	Vaughan.
Lattimore.	Ward.
Mayfield.	Warren.
McNealus.	

Absent.

Real. Sturgeon.

(Lieutenant Governor Davidson in the chair.)

Action recurred on the resolution, and

Senator Townsend offered the following amendment:

Amend the resolution by striking out the words "number of their desks" and insert in lieu thereof the number on their respective districts in numerical order.

TOWNSEND,
CARTER.

The amendment was read, and lost by the following vote:

Yeas—8.

Adams.	Paulus.
Carter.	Townsend.
Greer.	Vaughan.
Meachum.	Warren.

Nays—20.

Astin.	Collins.
Bryan.	Hudspeth.
Cofer.	Hume.

Johnson.	Ratliff.
Kauffman.	Terrell, McLennan.
Lattimore.	Terrell, Wise.
Mayfield.	Ward.
Murray.	Watson.
Peeler.	Weinert.
Perkins.	Willacy.

Present—Not Voting.

McNealus.

Absent.

Real.

Sturgeon.

Senator Ratliff offered the following substitute for the resolution:

I move as a substitute for the resolution that beginning with Monday night, February 20, the Senate hold night sessions on Monday, Tuesday and Thursday nights of each week.

Pending discussion, Senator Vaughan moved the previous question on the substitute, which motion being duly seconded, was so ordered.

The substitute was adopted.

Senator Murray offered the following amendment to the resolution, as substituted:

Amend the substitute by adding: provided the Senate shall recess at 12 m., 6 p. m. in the day time.

Senator Vaughan moved the previous question on the amendment, which motion being duly seconded, was so ordered.

The amendment was then adopted.

Action recurred on the resolution as substituted, and the same was lost by the following vote:

Yeas—9.

Bryan.	Ratliff.
Carter.	Townsend.
Greer.	Vaughan.
Johnson.	Ward.
Lattimore.	

Nays—21.

Adams.	Paulus.
Astin.	Peeler.
Cofer.	Perkins.
Collins.	Real.
Hudspeth.	Terrell, McLennan.
Hume.	Terrell, Wise.
Kauffman.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Sturgeon.

SENATE CONCURRENT RESOLUTION NO. 16.

By Senator McNealus:

Resolved, By the Senate of Texas, the House of Representatives concurring:

That His Excellency, Governor Thomas Marshall of Indiana, one of the foremost Democrats of our country, and who has redeemed his State from Republican rule and has made Indiana almost as solidly Democratic, in all practical affairs, as is Texas, be invited to address the State Legislature in Joint Session, at such time during the current session as may be convenient to him;

That a copy of this resolution, signed by the officers of the Senate and House, respectively, be telegraphed to Governor Marshall for his consideration.

The resolution was read and adopted.

SIMPLE RESOLUTION.

By Senator Astin:

Whereas, On Saturday, the 11th day of February, 1911, it was the pleasure of the members of the Senate and their families to visit the Agricultural and Mechanical College at Bryan, Texas; and,

Whereas, The success of that trip was largely due to the accommodations given by the International and Great Northern Railway Company, furnishing a special train of well equipped cars for the occasion; therefore, be it

Resolved, By the Senate, that the thanks of this body be, and are extended to said Railroad Company, its officers, agents and employes, for the many kindnesses and attention shown the members of the Senate, their families and friends on said trip.

Hume, Astin, Lattimore, Collins, Greer, Murray, Real, Cofer, Adams.

The resolution was read and adopted.

SIMPLE RESOLUTION.

By Senator Kauffman:

Whereas, Senate bill No. 171, known as the Cotton Belt Consolidation bill, was reported favorably by the Committee on Internal Improvements, for the purpose only of having the same printed, with the understanding on the part of said committee that said bill was to be

recommitted to same for its further consideration; therefore, in pursuance of said agreement, I move that said bill be recommitted to said committee for its further consideration.

The above resolution was read and adopted.

Morning call concluded.

MESSAGE FROM THE GOVERNOR.

Mr. J. T. Bowman, private secretary to the Governor, appeared at the bar of the Senate, and, being duly announced, presented the following message from the Governor, which was read to the Senate:

Governor's Office,
Austin, Texas, Feb. 16, 1911.
To the Senate and House of Representatives:

At the Fourth Called Session the Thirty-first Legislature passed a "Prison Reform Act," which, among other things, provided that the Governor should appoint a Prison Commission composed of three members, and vested said Prison Commission with "the exclusive management and control of the prison system of this State." This act went into effect on January 20, 1911, as per the terms of the law, and in accordance with its requirement the chief responsibility imposed by it upon the Governor, to wit: the appointment of the members of the Prison Commission was promptly complied with and Ben. E. Cabell, of Dallas county, Louis W. Tittle of Cherokee county, and Robert W. Brahan of Walker county were named as commissioners.

VALUE OF PENITENTIARY PROPERTY.

The Governor requested them to take a careful inventory of all properties belonging to the system, and upon careful consideration to report any needed revenues that would be required to carry on the system, and what, if any, would be the increased cost to the State in its maintenance under the new law, together with such other suggestions as they might deem pertinent and for the welfare of the State and all concerned.

Attached hereto and marked "Exhibit A" is the report of the Prison Commission made in compliance with the request above referred to. The Governor also requested the Railroad Commission to cause its auditor to audit the books of the State Railroad and to have its engineer to make val-

uation of same. Copies of the reports of the Railroad Commission auditor and engineer are attached to another report of the Prison Commission concerning the State Railroad and same is marked "Exhibit B." Both exhibits are attached hereto for the Legislature's information. According to their report, the Prison Commission finds the total value of the penitentiary properties to be \$3,258,225.67 exclusive of the State Railroad, the inventory being agreed upon by an auditor or auditors selected by the outgoing penitentiary board and the incoming Prison Commissioners.

FINANCIAL CONDITION.

The Prison Commission found the penitentiary system pretty well stripped of supplies to run on, in so far as the prisoners at Huntsville and Rusk are concerned, and the cash balance very low. They estimate that on this account, in addition to the receipts, it will require approximately \$258,688.82 to meet the expense of running the system for the next six months. The low state of the finances is due in part to the application of one hundred thousand dollars of its revenues to pay that amount of bonds held by the school fund for money borrowed in the building of the State Railroad.

The Prison Commission also furnished an estimate of the increased sums it will cost the State to run the prison system under the new law, estimating the total conservatively at \$298,750.00. This leaves out of consideration any estimate of the cost of the proposed fire-proof buildings and separate cell for each convict. If I did not misunderstand him, Hon. Gus Barton, late financial agent of the penitentiary, and recently elected auditor of the system by the board composed of the Attorney General, Comptroller, and State Treasurer, agrees that there will be a deficiency in an amount approximating the estimate of the Prison Commission; and he also agrees with them that the increased cost of maintenance under the new law, unless changed, will substantially be what the Prison Commission estimates it. The Prison Commission calls attention too to a discrepancy in the accounts of Palestine bank, which carried the deposits of the State Railroad, and Mr. Barton's account with the road as financial agent at Huntsville. But in justice to Mr. Barton, I think it should be stated

that this difference may be due wholly to the fact that checks against the account in the bank may have been outstanding at the time the statement was made and not charged up at Huntsville. I have requested Mr. Barton to audit the accounts of the State Railroad at the bank and at Huntsville with a view to straightening the matter out. He has offered to bear the expense of employing some one else to do this work, on the ground that he would prefer not to audit his own accounts. I deem it but just to the ex-financial agent of the penitentiary, who is now the auditor of the system, to make this statement in discussing this matter.

THE STATE RAILROAD.

The report of the Railroad Commission's auditor shows that the State Railroad has been operated at a loss, the deficit from operation to the date of his report being \$16,500.00. The Prison Commission reports the roadbed, including ties and bridges and all rolling stock, in bad condition. Twenty thousand ties, it is estimated, are needed for immediate use in the road, and these would cost not less than ten thousand dollars, put into the track. From the reports made of the general property of the prison system, including the State Railroad and at Huntsville and Rusk prisons, it is in a state of dilapidation and decay; and I respectfully call the attention of the Legislature to the fact that in dealing with this important subject, we are confronted by conditions that theories will not solve.

RECEIPTS FROM CONTRACT FORCES.

I call attention to the report of the Prison Commission showing by comparison the revenue from labor of convicts worked under contract. This report shows there will be a falling off in the cash revenues from convict labor of many thousands of dollars per month on account of the fact that near the close of the year 1910 the penitentiary management let the convicts out on contracts to cultivate farms on the shares instead of hiring them direct as theretofore had been done. This will cripple the available revenues of the system very much and will subject the system ultimately to a dependence upon the successful growth of crops, reducing the system from a certain to a very uncertain revenue basis. All reports

indicate too that it is on the share farms where the convicts fare worse and are most poorly taken care of. The report of the Prison Commission on this point is attached and marked "Exhibit C."

PROPERTY AND FINANCIAL RECAPITULATION.

This brings us to the conclusion of a brief review of the property account of the prison system of Texas and of the financial condition and needs of the system under present conditions. I will recapitulate them:

Value of general prison property	\$ 3,258,225.67
Value of State Railroad	509,061.59

Grand total\$ 3,767,287.26

Estimated amount of deficiencies in the operation of the State prison system:

Deficiency in operation (six months)	\$ 258,688.82
Increased cost under the new law (one year)	298,750.00

Total\$ 556,438.82

which will have to be taken care of by the present Legislature.

BUYING AND LEASING RECOMMENDED.

At the very threshold of the new act for prison reform, in Section 3, the Legislature says that "it is hereby declared the policy of this State to work all the prisoners within the prison walls, and upon farms owned by the State." In the face of this declared policy the revenues of the prison system were greatly reduced after the passage of this law by changing the letting of convicts from a stipulated sum per month to work farms on shares. If the policy of working convicts on farms is to continue, I most earnestly recommend that Section 3 be amended so as to require the convicts to work on "farms owned or controlled by the State." Share farming by the State, from my point of view, is not desirable; besides being unsatisfactory in the management of the convicts and uncertain in the financial outcome to the State. The declaration in the statute for "working prisoners within the prison walls" has been a standing Democratic platform demand in Texas almost from the time when the "memory of a Democrat runneth not

to the contrary." But it has long been an empty platitude, and the declaration of the statute above quoted will be such just so long as Section 3 remains in effect as it now reads. Section 14 of the new prison act should likewise be amended so as to authorize the Prison Commission to either "buy or lease" additional lands annually for the purpose of carrying out the declared purpose of that section. It will require much larger appropriations out of the general revenue than is previously mentioned herein to buy the necessary land than is deemed advisable to make. Besides, the burden of acquiring all necessary land to carry the act into effect should not fall upon the taxpayers at one time or within a few years. In duty to the present generation we should perfect the prison system and put it in good working order, but the burden of acquiring sufficient permanent property and improvements should not all fall on one generation. By adopting a system of leasing necessary lands the policy and purposes of the law can be humanely inaugurated and carried forward to perfection, and permanent property acquired at intervals without excessively straining the revenues of the State for any one year.

ABOUT FIRE-PROOF AND SEPARATE CELLS.

Section 15 of the new prison act makes it the duty of the Prison Commission to cause fire-proof buildings, which shall be ample in size to afford a separate cell or room for each prisoner. The concluding portion of this section gives six years time in which to complete this requirement. The capitol, in which the Legislature is now sitting, is not a fire-proof building. There are approximately 3500 convicts, on an average, to be housed. To provide each with a well ventilated room, even 6x8 in size, in a fire-proof building, would require a house two-stories high and covering several acres of ground; and to build separate fire proof houses on each farm and for each penitentiary would cost more than one structure, and it would in either case require more than the present general ad valorem tax to carry out this provision, and it would require the rebuilding of both the Rusk and Huntsville prisons. I deem the requirement an impractical one, and suggest that it be changed so as to require the construction of adequate buildings, which shall be sani-

tary and well ventilated, with ample fire protection. I do not think the needs of the convict, or the most fastidious demands of theoretical prison management, could expect the taxpayer to furnish a better house for the law breaker to live in than the law abiding taxpayer is able to supply for himself and family. I believe that every reasonable provision that might be required by a Christian people for the humane treatment of the convict should be provided for, but we should not forget at the same time humane punishment is required for the evildoer and is necessary for the protection of society. The law should be such as to require the reform of penitentiary management, and then the management should set on foot reforms for the convict himself. These efforts will be the work of experience and the gradual eradication of vices for which the convict himself is largely responsible.

TO AVOID CONFLICT.

Section 20 of the prison act should be amended so as to make it clear that the transportation of convicts to the penitentiary shall be exclusively under the control of the Prison Commission. As the law now reads, differences might arise between the prison management and the sheriffs over the right to convey prisoners and the cost of such service. It is believed that it will tend to the harmonious management and control of the prison system and be economy to allow the Prison Commission to employ separate and independent agents of its own to bring the convicts to the prison. Section 19, I suggest, ought to be changed so as to require the inspections required to be made by the Commission in person, to be done under their direction. It is believed that the time required for these inspections, if made as often as may be deemed desirable, would take the Commissioners away from other important work, and there should not be a statutory command for them to give personal attention to two important duties requiring attention at the same time.

CLASSIFICATION OF CONVICTS.

Section 33 provides for a classification of the convicts, a thing that seems to me to be very desirable. But this provision requires that each class provided for in said section shall

be kept "in or upon different or separate prisons or farms." This would require very heavy expenditure of money in providing separate prisons and farms and farm buildings for each of the three classes of prisoners. I believe it would be wise to amend the section making mandatory this requirement, but in lieu thereof provide that the Prison Commission should "maintain them separately as far as practical." It is most difficult to carry out a legislative requirement of this kind under present conditions. A wiser course, I believe, is to vest a larger discretion in the Prison Commission in matters of detail of this kind. Modes of punishment should be left to the Commission to be prescribed by general rules. Personally I do not believe in the "bat" nor in the "strap" nor in the "stripe," and cruel and unusual punishment should not be inflicted, but discipline and order must be preserved, and I believe the Legislature and the people could trust this part of prison management to three enlightened worthy and responsible Commissioners, to be regulated by general rules which could be altered as conditions might require, and they would be better than mandatory statutes.

SHALL CONVICTS BE PENSIONED?

Section 39 provides for the payment to certain prisoners 10 cents per day. The Prison Commission estimates that this requirement will cost \$120,000 per annum. It is insisted by some that the payment of such sum or any other amount to a convict, on the ground that it would benefit the convict's family, is wrong in theory. Others contend that it should be allowed, not for the sake of the convict's family, but held in trust by the State for the use of the convict himself after he has served his term of servitude. It is contended by these that such an accumulation would maintain the convict after his discharge until he could find honorable labor to do, and thus avoid being forced to again violate the law to keep "soul and body together" while in quest of honorable employment. I shall not concern myself about the theoretical contentions of either view of this question, but I do believe that there is a practical side to the matter and that provision should at least be made that any sum paid to the convict should be on condition that a surplus from the operation of the sys-

tem should justify it. Ten cents a day, under the theory of giving the law breaker something to live on after he completed his prison service, would be equal to a pension of \$3.00 per month. The average pension now being paid to indigent and disabled ex-Confederate soldiers in Texas is \$3.50 per month. All necessary provision for the humane treatment of convicts, I think, is eminently proper; but I am very doubtful if it is wise to establish a policy which is equivalent to paying them a pension.

INQUEST FEES AND BURIAL EXPENSES.

Section 48 of the prison reform act should be materially amended. It provides now that in case of a prisoner's death from whatever cause, an inquest shall be held, and provides a fee of five dollars for the justice of the peace holding the inquest. The section also requires all bodies to be shipped at the request of any relative within the third degree to any point in Texas at the expense of the State. In lieu of the present requirements of Section 48, the usual provisions for holding inquests over the bodies of persons meeting an unnatural death should apply. In all cases of death from natural causes the law should not require more of the State than that the body of any deceased prisoner should be forwarded upon request to any relative or friend requesting it, upon the payment of the expense of embalming and transportation. Otherwise, a decent burial at the expense of the State should be required and provided for. The law should require any well founded suspicion of any kind surrounding the death of a prisoner to be investigated as now provided by law; but it does not seem necessary to go through this formality when the death is due to natural causes. Section 49 should also be reformed so as to conform to the suggested changes for Section 48.

AN UNWISE PROVISION.

I believe that Section 57 contains a very unwise provision. The purpose of clothing the prisoner with the right to testify before a grand jury under the terms of the section may have had a good object in view. But the practical workings of it will inevitably be bad in its disciplinary results. The general law denies the convict or ex-convict, whose citizen-

ship has not been restored to him by pardon of the Governor, the right to testify. This general rule of law must have been conceived in some good purpose. It is now and has been customary upon application to the Governor, for restoration of citizenship of an ex-convict, in order to use him as a material witness, for the Governor to issue his proclamation of pardon for that purpose, upon proper showing being made. I fear that the provisions of this section will result in much more injustice being done than was the case in the instance which gave rise to the provision. I take the liberty of suggesting that a statute which would require the Governor to restore the citizenship of an ex-convict where it is shown that his testimony would be material, would be preferable to the provisions in Section 57 of the act of the Legislature providing a new prison system in Texas.

PAROLE LAW.

I recommend further that the parole law passed in 1905, with proper modifications to suit present conditions, be re-enacted. Section 1 of that act authorizes the penitentiary board and the board of pardons, with the approval of the Governor, to establish rules and regulations under which prisoners may be allowed to go upon parole. But any parole law should clearly conform to the Constitution which empowers the Governor to issue pardons and paroles.

SALE OR LEASE OF STATE RAILROAD.

The State Railroad is a burden and a failure and calls for immediate legislative consideration. It has cost something over half a million dollars, according to the Railroad Commission's estimate, and is also in a bad state of repair and is operated at a loss of several thousand dollars per month. I recommend that the Legislature make provision for the speedy sale or lease of this property, but any act authorizing its sale or lease should safeguard the rights of the State.

CONCLUSION.

It is cause for regret that the finances of the prison system of Texas are found in such bad condition on the taking effect of the new law for its government. But this condition

the Legislature will have to deal with. The large sums which the Prison Commission estimates will be required to rehabilitate the Rusk and Huntsville prisons show that not only the convicts have been neglected in an effort to make money out of the management of the system, but the property of the State, in addition, has been allowed to go to decay or fall into a bad state of repair.

I have now discussed about all the features of the new law relating to the fiscal management of our penitentiaries, its value and financial requirements. These concern us most now. There are many provisions which I think might be improved. But I know that "good men and true," desiring to reform the penal system's management and provide for an enlightened course of treatment of the unfortunate criminal, have devoted much labor, thought and time to the writing of the new law. I have no disposition whatever to enter upon a theoretical discussion of the different views advanced as to what is best to do. I prefer to confine myself to a discussion of those sections, in the main, which present conditions call for amendment.

I am in full sympathy with any good purpose of those desiring to better the conditions prevailing in the prison system of Texas. Yet I can not lose sight of the fact that the laws call for enforcement and that the expense of discipline, correction, and punishment of offenders will fall as a tax upon the good citizen. Therefore changes are suggested in provisions which seem to require unnecessary expenditures at this time.

The changes in the law herein recommended will not weaken, but strengthen, the new prison act, simplify it, and make it more responsive to real requirements, and will enable those responsible for the administration of the law to carry out in a substantial way the reforms aimed at in the law. There are many details called for by the terms of the law which I think could better be left to the Prison Commission to inaugurate by general rules, and there are some theories in it, but time and demonstration only will determine their value and practicability. I shall not, therefore, discuss my own ideas with respect to these theories, but leave the wisdom of putting them into law for future demonstration. But I respectfully and earnestly urge the Legisla-

ture to take prompt action with reference to the changes herein recommended.

Respectfully submitted,
O. B. COLQUITT,
Governor of Texas.

EXHIBIT A.

Following is the report of the Prison Commission to the Governor:
Hon. O. B. Colquitt, Governor, Austin, Texas.

Dear Sir: We, your Prison Commissioners of the prison system of Texas, beg leave to report that, acting upon your advice and instructions, a most careful inventory of the properties of the penitentiary system of the State has been taken, as completely as was possible within the limited time and with the information at hand.

We hand you herewith and make a part of this report itemized inventories of all properties. These inventories were taken by one party selected by the Prison Commission and the other party selected by the retiring Penitentiary Board, Financial Agent and Superintendent. Such inventories show a valuation of \$3,258,225.67. This does not, however, include the State Railroad, as a separate inventory and statement in regard to that property will be furnished you. These inventories include the two penitentiaries, Huntsville and Rusk, and everything connected therewith; the six State farms and equipment, including live stock, feed stuffs, and all farming machinery and implements on hand; also the two sugar mills, located, respectively, at the Harlem and Clemens farm; also all properties of the State, consisting of supplies, bedding, cooking utensils and commissaries at the contract and share farms: Huntsville Prison.....\$713 286.45
Rusk Prison..... 548,854.96
Ramsey State Farm.... 383,135.85

(This includes live stock, saw mill and everything pertaining to said farm.)

Harlem State Farm\$473.373.29
(This includes the sugar mill located on said farm.)

Wm. Clemens State
Farm\$726,691.16
Imperial State Farm... 318,715.83
Wynne State Farm..... 26,552.16
Camp Goree 19,378.33

In the inventories which we here-

with hand you and are made a part of this report, the actual acreage in each of these farms is given:

Share Farms.	Acres.
Imperial Sugar Co.....	5,712.57
Trammell Farm.....	1,302.97
Dew Bros. Farm.....	2,220.34
Texas Planting Company..	2,412.90
Bassett-Blakely Farm....	1,898.51
Gus Shaw Farm.....	1,644.43
B. Eastham Farm.....	974.62
Mrs. Della Eastham Farm	
No. 1.....	2,706.73
Mrs. Della Eastham Farm	
No. 2.....	795.47
Whatley & Elkins Farm..	1,586.02
Burleson & Johns Farm..	2,558.81

Contract Farms.	Acres.
W. T. Eldridge.....	1,339.04
Dyer & Bertram.....	1,416.86
Adams Bros.....	1,582.02
A. P. Borden.....	1,448.21
T. W. House No. 2.....	693.93
T. W. House No. 1.....	2,660.80
Dew Bros.....	1,832.72
Henderson & Tompkins...	1,916.43
C. G. Wood.....	2,293.13
W. L. Steele.....	1,241.15
John D. Rogers.....	2,425.11
G., C. & S. S. No. 1.....	2,120.07
Sugarland Railroad.....	3,415.59

In Having the books delivered to Mr. Tittle, Financial Commissioner of the Commission, by the Financial Agent, moneys to the amount of \$45,584.26 are shown. This was the actual amount in bank and delivered to and receipted for by Mr. Tittle. We attach hereto a financial statement showing the actual amount of cash on hand January 24, 1911, together with statement of amounts due and payable, and unpaid accounts against same. We bring to your attention item of "old accounts" on suspense ledger. From a hasty examination and on information obtainable, same are practically worthless to the amount of \$75,202.50. You will note that there is due two-thirds of one month's labor, approximately \$16,000, and invoices for merchandise purchased and in transit, approximately \$15,000.

With this statement of actual cash on hand, we hand you itemized estimate of cost of maintenance of the prison system for six months, beginning February 1, 1911. We make this six months for the reason that in the manufacture of any article in any of the industries in the peni-

tentiary we do not feel that we could hope for much returns from the sales of any manufactured article before the expiration of six months. If we had made the estimate for twelve months, it would, of course, have been double this amount.

You will note in this estimate that from cash on hand and all available receipts, which we can not with any degree of certainty accurately estimate, a deficiency of \$258,688.82 will be shown.

In the estimate made for materials for machine shop, cabinet shop and blacksmith shop, it is for supplies, and many of these supplies should last longer than six months. The reason for this is that much can be saved by buying wagon timbers and supplies of that kind direct from the mills, making a difference of at least 33 1-3 per cent in so doing. We hereto attach copy of same.

A sub-committee of the Finance Committee of the House of Representatives, in company with your Prison Commissioners, visited all of the various State properties and they have made a very full report thereon, and we most cheerfully endorse said report. We were very much pleased with their visit for they could represent from actual knowledge the different repairs necessary to keep the various State properties from deterioration and much of it from destruction, and we herewith beg to recommend the following appropriations that will be necessary to repair and rebuild the prison shops at Huntsville and Rusk, to repair and rebuild the houses and make the new improvements recommended for the State farms, and amounts that will be necessary to carry on the manufacturing industries inside the two prisons. Your Commissioners are firm in the opinion that the blacksmith shop, the machine and boiler shop and foundry, and other industries can all be operated at a profit if a reasonable appropriation is made to properly equip the same and purchase sufficient material for their operation. These opinions are brought about by a most careful investigation of all that has been done when these shops were properly operated and by the statements of the foremen and managers of each of these departments, giving in detail what would be necessary for their operation and maintenance; also the number of men

that could be worked at a profit and an assurance that there was a market for all manufactured articles of the industries mentioned.

We think that these industries should be conducted in a careful, prudent, business way. It is not the intention of the Prison Commission to work any number of men in either of these industries other than such as are absolutely necessary to turn out work that could be disposed of readily. We herewith hand you a report of the foremen of these various industries, which is made a part of this report. The shoe shop, tailor shop and cotton factory are indispensable. Not a great many men are worked in these shops. No attempt is made to dispose of these articles manufactured other than what is used by the convicts. Your Commissioners feel that it is imperative upon their part and a duty that these industries be maintained, for the reason that it gives employment to a class of convicts who are unfit for outside work and whose work, if not making a profit to the State, can be made at least self-sustaining, and further, fit these men for good trades which will be of great use to them when their term of sentence expires.

For repairs at Rusk, repairing administration and cell buildings, residences and shops, \$18,900.00.

(Itemized statement is handed you and made a part of this report.)

Repairs for Huntsville penitentiary, buildings, etc., \$12,000.00.

This does not include the sanitary sewerage changes and fire protection, nor the central power house at Huntsville and Rusk.

Amount necessary to run hospital at Huntsville.	\$ 1,000.00
Amount necessary to run tailor shop	29,183.00
Amount necessary to run shoe shop	18,000.00
Amount necessary to run library, books and general expenses	500.00
Amount necessary to run cotton factory	20,919.17
Amount necessary to run blacksmith shop	55,755.00
Amount necessary to run furniture factory	46,802.95
Amount necessary to run machine shop	50,524.03

We feel that \$50,000 should be

appropriated to buy machinery and material to put in an up-to-date furniture factory at Rusk. The buildings necessary for this factory are already erected, and were at one time equipped for making furniture.

Repairs.

For Huntsville Prison...\$22,000.00
For Rusk Prison..... 19,000.00

Sewerage.

For Rusk Prison.....\$15,000.00
For Huntsville Prison... 15,000.00

NEW IMPROVEMENTS.

Huntsville.

New power plant.....\$22,000.00

Rusk.

Foundry\$14,000.00
Machine shops..... 17,000.00
Furniture factory..... 50,000 00

STOCK AND MATERIALS TO OPERATE
FACTORIES.

Huntsville.

Amount for supplies and material, furniture and cabinet shops\$81,000.00

Amount for supplies and material, blacksmith shop 41,000.00

Amount for same, for machine shops 66,000.00

Amount for same, for shoe shop 18,000.00

Amount for same, for tailor shop 29,000.00

New Improvements on State Farms.

Imperial State Farm....\$20,000.00

Ramsey State Farm..... 17,000.00

Harlam State Farm..... 29,000.00

Clemens State Farm.... 27,000.00

Wynne State Farm..... 10,000.00

Goree Camp State Farm. 16,000.00

Conveying new convicts to the penitentiary...\$ 25,000.00

Estimated cost of clothing, guarding, feeding, salaries, etc., for the entire system, for six months\$539,000.00

Estimated receipts, including cash on hand, labor, etc., for the next six months..... 280,311.18

Deficit\$258,688.82

We beg to report that we have now within the two prisons, Huntsville and Rusk, and on the State

farms, contract and share forces, and asylums, approximately, 3500 convicts. A greater portion of these are on the outside—about 500 convicts in the two penitentiaries.

ESTIMATED INCREASED COST UNDER NEW
LAW.

Under the new law the expense that is to be borne by the present system that was not borne by the last administration under the old law is:

Ministers\$ 10,000.00
Dentists 20,000.00
School teachers and supplies 6,000.00
Libraries 10,000.00
Tombstones 250.00

Coffins and transporting dead bodies to residences 2,500.00

Extra pay to guards.... 40,000.00

The per diem to all convicts 120,000.00

Extra pay to convicts for Sunday and overtime work 25,000.00

To extra sanitary improvements 50,000.00

The extra expense occasioned by conveying all prisoners to one point 15,000.00

The requirement that all convicts within a given time should be worked within the walls or upon State account, thereby practically refitting many of the various shops, such as blacksmith, wagon factories, boiler and machine shops, cotton factory, and tailoring department, shoe factory, and on account of the depleted condition of the physical property of both the Huntsville and Rusk prisons, and more especially Rusk, the magnificent buildings and shops having been left entirely to ruin, all of this involving an expense, aggregating 50,000.00

Total\$298,750.00

Non-efficiency of present forces and loss of work will be at least 20 per cent on contract, share force and State account. No basis upon which calculations can be made.

ESTIMATED COST OF FEEDING, CLOTHING AND GUARDING.

Pay roll	\$145,000.00
Provision	130,000.00
Clothing	10,500.00
Transportation, new convicts	12,000.00
Preachers	2,500.00
Convicts per diem	12,500.00
Discharge account	60,000.00
Freight	6,000.00
Bills payable	49,500.00
Clothing for discharged men	12,000.00
Material for machine shop, 6 mos.	30,000.00
Material for cabinet shop, 6 mos.	30,000.00
Material for blacksmith shop, 6 mos.	19,000.00
100 horses and mules, at \$200 each	20,000.00

Total\$539,000.00

Cash, banks and treasurer	\$ 63,112.30
Sugar drafts out	5,198.88
Estimated receipts, general	48,000.00
Estimated receipts for labor	164,000.00

Total\$280,311.18

Estimated cost	\$539,000.00
Less receipts	280,311.18

Deficit\$258,688.82

FINANCIAL STATEMENT.

January 24, 1911.

Accounts receivable	\$ 56,193.32
Bills receivable	10,250.04
Cash on hand and in banks and treasury...	45,584.26
97 bales of cotton shipped and unsold, estimated at \$65 per bale.	\$6,305.00
7 cars second sugar, 279,-047 lb, estimated at 2½c, net unsold consignment	6,976.17
	<u>13,281.17</u>

116,303 lb Y. C. sugar at 4½c	\$4,652.12
Invoiced to Rotan Gro. today, 78,988 gals. molasses, at 25c	19,772.00

\$149,732.91

Less accounts payable.. 19,170.15

\$130,562.76

Less 40 per cent on 75 B-C Cunningham share farm, estimated, \$65 per bale

1,950.00

\$128,612.76

Old accounts on "suspense ledger"

75,202.50

Total amount of inventories.

Note.—There are due two-thirds of one month's labor, approximately \$16,000, and invoices for merchandise purchased and in transit, approximately \$15,000.

We give you, for your information, the additional expense that is devolved upon the present administration by virtue of the new law, under which we are governed, as against the old law. This we estimate would be more than the last administration by \$298,750.00. While we agree that many of the items of the new law are absolutely necessary, we think some changes should be made. Those changes have been brought to the attention of the Legislature, and we agree most heartily with the recommendations made.

This law as it is at present does not seem to be understood by the convicts. They are hard to control, two mutinies at two different camps since January 24, 1911, having occurred. This has been brought to the attention of the Legislature and we feel that it should receive their immediate attention. In the first mutiny there were eight men, in the last twenty-seven. It is our purpose to use every means within our power to carry out the spirit of the law, and we propose to do everything in our power to so conduct the affairs of the prison system that it will be a credit to the State, but we do not think laws that seriously interfere with and cripple the system should remain unchanged.

Respectfully submitted,

BEN A. CABELL,

LOUIS W. TITTLE,

R. W. BRAHAN,

Prison Commissioners.

Austin, Texas, Feb. 11, 1911.

EXHIBIT B.

STATE RAILROAD.

Following is the report of the Prison Commission concerning the State Railroad, also the reports of the Railroad Commission's auditor and engineer, as to the state of its accounts and value:

To His Excellency, Governor O. B. Colquitt, Austin, Texas.

Dear Sir: We herewith hand you report made to the Railroad Commission of Texas by their auditor, Mr. Fitzgerald, as to the financial condition of the State railroad, running between Palestine and Rusk, Texas. In this report a difference in the cash, as shown by the books at Palestine and the bank statement shows \$14,464.50 less in bank than is shown by the books.

Our understanding is that all the books of the old penitentiary system were kept at the Huntsville office. We would recommend that you have the regular auditor of the prison system go at once to the Huntsville office, and there, in connection with an auditor to be appointed by the Prison Commissioners, make a thorough investigation of these matters, that a full statement thereof can be made you.

The report made to the Railroad Commission by Mr. Parker, their engineer, makes an estimate of about what it would require to build and equip a railroad such as the Texas State Railroad, such estimate being \$577,899.63. This report shows that roadbed, including ties and bridges and practically all rolling stock, including all of the engines, are in a much depleted condition. Our information is that it will require 20,000 ties to be placed on this road within the next six months.

We herewith hand you said reports, and make them a part of our report. We bring to your attention that the report of Auditor Fitzgerald shows a loss in the operation of this road for the last three years of \$16,500.00. The operation of this property being so great a loss will make it necessary for your Prison Commission to reduce the operating expenses of this road as far as it can consistently and practically be done.

If these expenses can not be reduced, it will become necessary to ask for an appropriation for the

operation and maintenance of this road.

Respectfully submitted,
(Signed) BEN E. CABELL,
LOUIS W. TITTLE,
R. W. BRAHAN.

Austin, Texas, Feb. 11, 1911.

RAILROAD COMMISSION'S AUDITOR'S REPORT.

Austin, Texas, Feb. 1, 1911.

To the Honorable Railroad Commission of Texas, Austin, Texas:

Gentlemen: Referring to request of Penitentiary Commission respecting examination of the accounts of the Texas State Railroad, in accordance with agreement I proceeded to Rusk on Monday, January 30, 1911, to meet Hon. L. W. Tittle.

After discussing the matter it was decided that an examination be made of the railroad books and accounts at Palestine and if found necessary, to make a check of same against the books at Huntsville; this to be decided after ascertaining conditions at Palestine.

Examination of the books at Palestine disclosed they had not been balanced since June 30, 1910, date on which annual report was made to the Commission. As the statements and data respecting the transactions for the month of January, 1911, were not available, I proceeded to obtain from the general ledger, a trial balance as of December 31, 1910, copy of which is attached hereto.

A copy of this balance sheet is to be forwarded to Mr. Tittle at Rusk for comparison with the books at that place of the penitentiary system, as unless these books correspond, it is evident all the transactions pertaining to the operation of the State Railroad are not accounted for on their books. It is quite likely that such a condition exists and it will be necessary to line up the railroad books with those at Huntsville; this it would seem can be accomplished by the auditor of the State Railroad and the bookkeeper at Huntsville getting together.

The books of the State Railroad show a cash balance with the Palestine National Bank on December 31, 1910, of \$14,806.72 (see balance sheet herewith) which amount would be further increased after adding the January deposits. However, the actual balance on hand at the bank on January 31, 1911, as obtained from the cashier, is only \$342.22, drafts be-

ing drawn on said account by the financial agent at Huntsville during the period from July 1st to date, which should be charged to the Huntsville general account and the bank credited.

There has been an improvement in the method of keeping the accounts at Palestine since the previous examination of said accounts, also in keeping of certain statistics which are required by the Commission for the monthly and annual reports. However, they are not as complete as is necessary to make full and accurate returns, especially as required for the annual report.

In order to obtain and keep an

accurate and correct record of the receipts and expenditures of the State Railroad, and also to organize a system of accounts to safeguard against the possibilities of errors, it would have some one in charge of inaugurating and carrying out a plan, who is not either interested in the collection of revenues or the disbursement of expenditures. Until such a system is established there can be no feeling of safety in assuming that the results as shown disclose entirely the true results pertaining to the income or deficit from operation of the property.

Respectfully submitted,

W. E. FITZGERALD,

Auditor.

THE TEXAS STATE RAILROAD—TRIAL BALANCE. GENERAL LEDGER, DECEMBER 31, 1910.

	Dr.	Cr.
Maintenance of way and structures.....	\$ 6,460.63	
Maintenance of equipment	1,131.62	
Traffic expenses	234.83	
Transportation expenses	5,650.75	
General expenses	340.37	
Freight revenue, local		\$ 2,587.07
Freight revenue, interchange		4,588.96
Freight revenue, interstate		1,712.41
Passenger revenue, local		3,138.40
Passenger revenue, interchange		63.00
Baggage revenue		11.60
Express revenue		272.53
Switching revenue		23.70
Car service		12.00
Non-transportation revenue		
Income account	10,000.00	
Profit and loss	4,530.95	
Huntsville general account		149,996.00
Rusk general account		230,525.61
Hire of equipment, freight payments.....	696.59	
Hire of equipment, freight receipts.....		99.90
Hire of equipment, passenger payments.....	5.00	
Cost of road and equipment.....	565,534.70	
First mortgage bonds		200,000.00
Accrued interest		833.33
Sinking fund		10,833.33
Station agent, Maydelle	1.56	
Station agent, Palestine	35.94	
Palestine National Bank	14,806.72	
Advances and prepay account Station Agents...	2.90	
Wells-Fargo Express Company	120.00	
Miscellaneous accounts.....		110.88
Locomotive replacement		1,121.24
Passenger train car replacement		30.00
Freight train car replacement		1,662.16
Work train car replacement		472.50
Material account	202.88	
Foreign roads, per diem		319.70
Accounts payable		1,211.12
	<u>\$609,755.44</u>	<u>\$609,755.44</u>

Deficit from operation to date (including interest on Bonds and Sinking Fund) practically \$16,500.00.
(Copy.)

Respectfully submitted,

W. E. FITZGERALD, Auditor.

RAILROAD COMMISSION'S VALUATION.

Austin, Texas, Feb. 11, 1911.

To the Honorable Railroad Commission of Texas, Building.

Gentlemen: Pursuant to your directions I made an inspection of the Texas State Railroad, for the purpose of estimating the value thereof. Hereto you will find attached statement of value, concerning which I have the following to report:

COST OF REPRODUCTION.

ROADWAY AND STRUCTURES.

Column 1 covers the amount I estimate it would require to produce the property today, basis standards I found in use on the road and structures on January 27, 1911, the date upon which inspection was made. This estimate is based upon current costs of labor and material. The resultant figure, \$478,165.00, is the amount for which I am of the opinion the roadway and structures could be replaced by a company organized today to build the road under normal conditions. Where second hand material was apparently used I estimated costs on second hand basis; for instance, the rail between Rusk and Maydelle was evidently relayer when put down, and I have so estimated its value or reproduction cost. In estimating right-of-way and station grounds, the actual property owned was not obtainable from the records, I have estimated this on basis acreage which would be required to construct the roadbed and provide borrow and waste space. The right-of-way so estimated was, with the exception of the miles on which heavy construction required additional width uniformly 100 feet. The real estate costs are placed at what I estimate would be required to secure the property. The grading quantities are based on cross section notes of Construction Engineers where obtainable, and where not obtainable were estimated by profile center heights, the widths of roadway being secured during the inspection. All of the quantities covering bridges, trestles and culverts, buildings, track, etc., are based on existing structures, data upon which was secured on inspection and from profile records. Current unit costs of construction and material, location

of the property considered, were applied to the quantities found as above.

EQUIPMENT.

The equipment of the State Railroad consists of three (3) engines purchased second hand. They are of the Mogul type, and built by the Baldwin Locomotive Works, weight approximately 45 tons. These engines are numbered 4, 5 and 6. In addition to the engines, 39 freight cars and 2 passenger cars are owned. These figures are based upon statements made to me by Mr. A. M. Barton and Mr. T. T. Clark. See list of freight cars, Exhibit "B." The annual report of the Texas State Railroad to the Commission shows equipment owned as follows:

	In Service.	Retired
	during year.	
Engines	2	1
Passenger cars	2	0
Freight cars	18	0

Total cars, 20; total engines, 3.

I have accepted these figures given me by the gentlemen named above. The statement Exhibit "B" shows cost of freight cars now; cost to repair, and value of scrap which could be recovered therefrom. The engines I estimate could be bought second hand from equipment dealers today in condition they were first secured at \$18,000. (See discussion of depreciation following.)

DEPRECIATION.

ROADWAY AND STRUCTURES.

I have estimated depreciation on the following items, based upon the life of the structures and expected age of service thereof, timber, trestles, timber drain boxes, cattle guards, ties and rails, telephone line, and miscellaneous buildings as indicated in statement heretofore referred to. I have also added an increment of value to the track between Rusk and Maydelle on account of solidification of roadbed amounting to \$250.00 per mile. This added value is a result of age and maintenance and operation of the road.

EQUIPMENT.

As stated above, the engines are estimated in Column 1, at cost in running condition second hand; the cars new. I have depreciated the engines' value at approximate esti-

mated cost to repair without expert mechanical examination, which I would recommend be given same, and present value so ascertained. The cars are depreciated by an amount which is the aggregate of the estimated cost to repair, plus 50 per cent depreciation. All of the equipment is obsolete in the present day, but doubtless would serve this line as it stands locally, or some lumber or other industrial concern operating a short line road, but the appraised value of the equipment by a common carrier engaged extensively, for example, the connecting lines, would doubtless be low. The restricted use to which such equipment could be put being the reason for the discount on value. I doubt not that connecting lines would now refuse to accept the cars of this line on interchange tracks. The tools, material and supplies on hand were estimated in Column 1 on basis present value (see Exhibit "A").

NET VALUE.

Column 3 of statement covers the net estimated value after deducting depreciation and adding appreciation as above outlined. You will note that I have not considered the "Commercial Value" of the plant; this is not necessarily to be

based upon the heretofore found results of operation, for one of the connecting carriers might acquire the property and make good use of it in extending its trade territory. While the outlook in this respect may not be considered bright, there is, I am informed, not a small amount of virgin pine timber tributary to this line, which must some day be manufactured and freighted. The agricultural sources locally are as yet of little consequence, but doubtless will grow. Discussion of this, however, is not necessarily within the province of this report and my service to you, and the disposition of the property is a business proposition to be solved by those in authority. The "Commercial Value" can be established, no doubt, by the offer of the road in the market.

CONCLUSION.

I have in the files in the office the details of the valuations upon which the figures here given are based. I have kept them for the files of the Commission, as in all valuations made. I will be glad to give you any explanation of the details which may be desired.

R. D. PARKER,
Engineer.

STATEMENT OF VALUE OF THE TEXAS STATE RAILROAD.

Reproduction

Item.	Cost.	PerCent. Depreciation.	Net Value.
Right of Way and Station			
Grounds	\$ 15,057.50		\$ 15,057.50
Clearing and grubbing ..	16,328.25		16,328.25
Earth excavation and embankments	153,239.40		153,239.40
Masonry culverts	4,485.00		4,485.00
Timber trestles	56,005.00	25,592.77	30,412.23
Drain boxes	10.00	50 5.00	5.00
Drain pipes	21,807.10		21,807.10
Cattle guards	1,545.00	30 463.50	1,081.50
Road crossings	550.00		550.00
Track complete	172,861.04	18,911.00	153,950.04
Sidings	29,592.20	12.5 3,699.03	25,893.17
Railroad crossings	775.00		775.00
Telephone	405.25	20 81.05	324.20
Miscellaneous structures .	5,505.00		5,505.00
Engines	18,000.00	8,500.00	9,500.00
Passenger cars	4,000.00	33.3 1,333.35	2,666.65
Combination cars	3,600.00	33.3 1,200.00	2,400.00
Freight cars	16,664.75	9,052.42	7,612.33
Tools, material, etc.....	1,422.57		1,422.57

Transportation and train hire	\$8,230.00		\$8,230.00
Legal, engineering and overhead expenses	47,816.57		47,816.57
Totals	\$577,899.63	\$68,838.12	\$509,061.51
Per mile	17,554.66		15,463.59

R. D. PARKER,
Engineer, Railroad Commission of Texas.
(Copy)

Austin, Texas, February 11, 1911.

"EXHIBIT C."

To His Excellency, Governor O. B. Colquitt, Austin, Texas.

Dear Sir: In a former report heretofore made you as to the financial condition of the Prison System, we failed to bring to your attention the difference in the monthly receipts from the contract forces for the year 1910 and the year 1911. We attach hereto a report made by Prison Auditor Barton, showing that for the year 1911 the receipts each month will be \$23,422.24, less than for each month for the year 1911, aggregating for the year a total of \$89,143.68. This is occasioned by a change in the latter part of the year 1910 from contract forces which settled each month to share forces, from which there are no receipts until the end of the year, and this depends upon the crops made.

Respectfully submitted,

(Signed) BEN E. CABELL,
LOUIS W. TITTLE,
R. W. BRAHAN,
Prison Commission.

Austin, Texas, February 11, 1911.

AUDITOR BARTON'S FIGURES.

	1909.	1910.
January .. \$	40,543.50	\$ 38,796.69
February .	37,607.34	27,677.99
March	37,389.29	27,184.20
April	39,749.70	25,885.36
May	39,554.04	24,773.94
June	41,619.54	33,379.26
July	40,629.59	28,329.88
August ...	39,918.77	26,844.11
September .	38,889.83	29,222.56
October ..	38,218.26	24,564.31
November .	37,475.31	29,492.15
December .	33,409.33	29,884.56
January ..	38,776.69	24,174.35
	\$503,751.19	\$370,209.36
		24,174.35
		\$346,035.01

\$281,065.68

\$503,751.19 \$ 64,969.33
370,209.36

\$133,541.83

23,422.14

September, 1910.

Show, Sept., 1910.....276 men.

Texas, Sept., 1910.....

Est. now...\$ 23,422.14

.12

\$370,209.36
\$281,065.68 281,065.68

\$ 89,143.68

SENATE BILL NO. 204—REFUSE
TO MAKE SPECIAL ORDER.

Senator Perkins moved that the pending order of business (House bill No. 51) be suspended, and the Senate take up, out of its order, Senate bill No. 204.

The motion was lost by the following vote, a four-fifths vote being necessary:

Yeas—22.

Adams.	Peeler.
Astin.	Perkins.
Carter.	Ratliff.
Hudspeth.	Real.
Johnson.	Terrell, McLennan.
Kauffman.	Townsend.
Lattimore.	Ward.
Mayfield.	Warren.
Meachum.	Watson.
Murray.	Weinert.
Paulus.	Willacy.

Nays—8.

Bryan.	Hume.
Cofer.	McNealus.
Collins.	Terrell, Wise.
Greer.	Vaughan.

Absent.

Sturgeon.

SENATE BILL NO. 205—REFUSED
TO MAKE SPECIAL ORDER.

Senator Perkins moved that the pending business (House bill No. 51) be suspended, and the Senate take up, out of its order, Senate bill No. 205.

The motion was lost by the following vote, a four-fifths vote being necessary:

Yeas—20.

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Hudspeth.	Ratliff.
Hume.	Real.
Kauffman.	Terrell, McLennan.
Lattimore.	Townsend.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—10.

Bryan.	McNealus.
Cofer.	Terrell, Wise.
Collins.	Vaughan.
Greer.	Ward.
Johnson.	Warren.

Absent.

Sturgeon.

REASONS FOR VOTING.

We vote "nay" to taking up Senate bills No. 204 and 205 just at this time because the friends of prohibition measures at a meeting, Senator Perkins being absent, had agreed to stay by the calendar today and had arranged to take up these liquor bills after the return of Senator Sturgeon, who is now unavoidably absent. We hope to take up the measures and dispose of them in accordance with our plans, and invite Senator Perkins to act in harmony with us at the earliest day when all friendly Senators are present. We need them all present.

COFER.
VAUGHAN,
COLLINS.

HOUSE BILL NO. 326—REFUSED
TO TAKE UP.

Senator Hume moved that the

pending order of business (House bill No. 51) be suspended, and the Senate take up, out of its order House bill No. 326.

(President Pro Tem. Hudspeth in the chair.)

The motion was lost by the following vote:

Yeas—19.

Adams.	Murray.
Astin.	Paulus.
Carter.	Peeler.
Greer.	Perkins.
Hudspeth.	Real.
Hume.	Terrell, McLennan.
Johnson.	Watson.
Kauffman.	Weinert.
Mayfield.	Willacy.
Meachum.	

Nays—11.

Bryan.	Terrell, Wise.
Cofer.	Townsend.
Collins.	Vaughan.
Lattimore.	Ward.
McNealus.	Warren.
Ratliff.	

Absent.

Sturgeon.

HOUSE BILL NO. 109—REFUSED
TO TAKE UP.

Senator Terrell of McLennan moved that the pending order of business (House bill No. 51) be suspended, and the Senate take up, out of its order, House bill No. 109.

The motion was lost by the following vote:

Yeas—19.

Adams.	Murray.
Astin.	Paulus.
Carter.	Peeler.
Cofer.	Perkins.
Collins.	Terrell, McLennan.
Hudspeth.	Ward.
Hume.	Watson.
Johnson.	Weinert.
Kauffman.	Willacy.
Mayfield.	

Nays—11.

Bryan.	Lattimore.
Greer.	McNealus.

Meachum.
Ratliff.
Real.
Terrell, Wise.

Townsend.
Vaughan.
Warren.

Absent.

Sturgeon.

HOUSE BILL NO. 70.

Senator Mayfield moved that the pending order of business (House bill No. 51) be suspended, and the Senate take up, out of its order, House bill No. 70.

The motion was lost by the following vote:

Yeas—16.

Astin.	Murray.
Bryan.	Paulus.
Carter.	Peeler.
Collins.	Perkins.
Hudspeth.	Terrell, McLennan.
Hume.	Watson.
Kauffman.	Winert.
Mayfield.	Willacy.

Nays—14.

Adams.	Ratliff.
Cofer.	Real.
Greer.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
McNealus.	Ward.
Meachum.	Warren.

Absent.

Sturgeon.

HOUSE BILL NO. 51.

Action recurred on House bill No. 51, the pending business, and the chair laid before the Senate on second reading

House bill No. 51, A bill to be entitled "An Act to amend an Act of the Thirty-first Legislature entitled 'An Act to create a Bureau of Labor Statistics; and to provide for the appointment of a Commissioner for said Bureau, and to fix the duties of the said commissioner, and to provide for the organization and maintenance of the said Bureau, and for the collection, preservation and dissemination of labor statistics in Texas, and declaring an emergency,' so as to provide for the appointment by the Commissioner of Labor Statistics of an Inspector of Safety Appliances, and also to provide for the

appointment by such commissioner of a clerk and factory inspector, increasing the appropriation for traveling expenses, and declaring an emergency."

Senator Townsend moved the previous question on the bill, which was seconded.

The Chair, however, on a point of order, held that in view of the fact that the bill had not been discussed, would allow a Senator to make a statement.

RECESS.

Senator Lattimore moved that the Senate recess until 3 o'clock today.

The motion prevailed, and accordingly the Senate, at 1 o'clock p. m., recessed until 3 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, Feb. 16, 1911.
Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

Senate bill No. 141, A bill to be entitled "An Act to reorganize the Second and Fourth Judicial Districts and to create the Seventy-first Judicial Districts of the State of Texas, and to fix a time of holding courts in said districts, and to fix the jurisdiction of the court of said Seventy-first Judicial District, and to provide for the appointment of a judge of said Seventy-first Judicial District, and to repeal all laws in conflict herewith, and declaring an emergency," with amendments.

Senate bill No. 142, A bill to be entitled "An Act to diminish the civil jurisdiction of the county court of Harrison county, to conform the jurisdiction of the district court thereof, and to repeal all laws in conflict herewith, and declaring an emergency," with amendments.

Respectfully,

BOB BARKER,

Chief Clerk House of Representatives.

HOUSE BILL NO. 51.

Action recurred on House bill No.

51, and Senator Murray offered the following amendment:

Amend the bill by striking out of line 5, page 2, the words "and an inspector" and insert the following: "Who shall also be inspector of."

Senator Lattimore made the point of order on the amendment that the previous question had been moved and seconded on the engrossment of the bill.

Lieutenant Governor Davidson called President Pro Tem. Hudspeth to the chair, who was presiding at the time the previous question was moved and seconded.

President Pro Tem. Hudspeth held that as the amendment had already been offered, the author having had recognition, could be considered. The amendment was considered.

(Senator Ratliff in the chair.)

Pending discussion, Senator Vaughan moved to table the amendment, which motion to table prevailed by the following vote:

Yeas—17.

Adams.	Peeler.
Bryan.	Perkins.
Carter.	Real.
Cofer.	Terrell, McLennan.
Collins.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
Mayfield.	Warren.
McNealus.	

Nays—10.

Astin.	Ratliff.
Hudspeth.	Ward.
Hume.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Greer.	Paulus.
Kauffman.	Sturgeon.

Senator Collins moved the previous question on the engrossment of the bill, which motion being duly seconded, was so ordered.

The bill having been read, was passed to a third reading by the following vote:

Yeas.—27.

Adams.	Bryan.
Astin.	Carter.

Cofer.	Ratliff.
Collins.	Real.
Hudspeth.	Terrell, McLennan.
Hume.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
Mayfield.	Ward.
McNealus.	Warren.
Meachum.	Watson.
Murray.	Weinert.
Peeler.	Willacy.
Perkins.	

Absent.

Greer.	Paulus.
Kauffman.	Sturgeon.

On motion of Senator Townsend the Constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas.—27.

Adams.	Peeler.
Astin.	Perkins.
Bryan.	Ratliff.
Carter.	Real.
Cofer.	Terrell, McLennan.
Collins.	Terrell, Wise.
Hudspeth.	Townsend.
Hume.	Vaughan.
Johnson.	Ward.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Greer.	Paulus.
Kauffman.	Sturgeon.

The bill was read third time and passed by the following vote:

Yeas—28.

Adams.	Murray.
Astin.	Peeler.
Bryan.	Perkins.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Terrell, Wise.
Hudspeth.	Townsend.
Hume.	Vaughan.
Johnson.	Ward.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.

Absent.

Kauffman.
Paulus.

Sturgeon.

Senator Townsend moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

SECOND HOUSE MESSAGE.

Hall of the House of Representatives.

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

Senate Concurrent Resolution No. 14, inviting Hon. Theodore Roosevelt to address a joint session of the Legislature.

Senate Concurrent Resolution No. 15, inviting Hon. Woodrow Wilson to address a joint session of the Legislature.

Senate Concurrent Resolution No. 16, inviting Gov. Thomas Marshall to address a joint session of the Legislature.

Senate Concurrent Resolution No. 13, inviting Hon. Judson Harmon to address a joint session of the Legislature, with amendments.

Respectfully,

BOB BARKER,

Chief Clerk House of Representatives.

SIMPLE RESOLUTION.

By Senator Hudspeth:

(By Unanimous Consent.)

Whereas, the Territory of New Mexico ingrafted into its constitution a provision providing that the boundary line as heretofore recognized for the last sixty years as being the boundary line between Texas and New Mexico be materially changed to the effect that quite a slice of the western part of Texas and the Panhandle would be incorporated in the new State of New Mexico, and

Whereas, President Taft has ably assisted the Texas delegation in the National Congress in their efforts to maintain the boundary line as it is at present understood;

Therefore, be it resolved that the Senate of Texas express its sincere appreciation for the able efforts of our distinguished President and for the

manly stand that he has taken in this matter, and be it further

Resolved, that it is the sense of this Senate that the Texas delegation in Congress, both Senate and Representatives, be hereby requested to oppose the admission of the territory of New Mexico to statehood, or in other words, the ratification of her Constitution, unless that portion of her Constitution changing the boundary line between the State of Texas and the territory of New Mexico be eliminated, which line as proposed would encroach upon the State of Texas and a large number of her citizens living in the disputed territory, very much to the detriment of said citizens and the State in its entirety.

HUDSPETH.

JOHNSON.

The resolution was read and adopted.

HOUSE BILL NO. 326.

On motion of Senator Hume, the regular order of business (House bill No. 83) was suspended, and the Senate took up, out of its order, House bill No. 326, by the following vote:

Yeas—21.

Adams.	Paulus.
Astin.	Peeler.
Bryan.	Perkins.
Carter.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Ward.
Hume.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.
Murray.	

Nays—8.

Cofer.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
McNealus.	Warren.

Absent.

Kauffman. Sturgeon.

(Lieutenant Governor Davidson in the chair.)

The Chair laid before the Senate, on second reading,

House bill No. 326, A bill to be entitled "An Act to grant a charter

to the City of Houston Heights, in Harris county, Texas; defining its territorial limits, setting forth and defining its powers and duties; providing a system of taxation; providing for the election of officers; and repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

On motion of Senator Hume, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report).

The committee report, which provided that the bill be not printed, was adopted.

Senator Hume offered the following amendment, which was read and adopted:

Amend Section 6, Article 1, of the bill by adding after the word "reasonable" in last line on page 5 of the bill the following:

"And provided further that said city shall not prescribe any rate compensation which will yield less than ten percent per annum net on the actual value of the physical properties; and the city council shall, by ordinance, fix and declare the manner in which such value shall be determined."

Bill read second time, and passed to a third reading.

On motion of Senator Hume, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Adams.	Paulus.
Astin.	Peeler.
Bryan.	Perkins.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Terrell, Wise.
Hudspeth.	Townsend.
Hume.	Vaughan.
Johnson.	Ward.
Mayfield.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—1.

Lattimore.

Absent.

Kauffman.

Sturgeon.

The bill was read third time, and passed by the following vote:

Yeas—29.

Adams.	Paulus.
Astin.	Peeler.
Bryan.	Perkins.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Terrell, Wise.
Hudspeth.	Townsend.
Hume.	Vaughan.
Johnson.	Ward.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Kauffman.

Sturgeon.

Senator Hume moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

THIRD HOUSE MESSAGE.

Hall of the House of Representatives.
Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

Senate bill No. 26, A bill to be entitled "An Act to provide additional compensation to all judges of district courts, district attorneys of the State of Texas, and to judges of the criminal district court of Harris and Galveston counties, by allowing compensation for actual and necessary expenses when engaged in the discharge of their official duties in counties other than the county of their residence, and declaring an emergency."

Senate bill No. 36, A bill to be entitled "An Act to amend Section 24, of Article 642, Title 21, Chapter 2, of the Revised Statutes of the State of Texas, providing for the creation of corporations for the purchase and sale of goods, wares, merchandise and agricultural and farm products.

so that said section shall also include creation of such corporations for the purpose of gathering and preparing such products for the market, and the purchase, sale, and disposal of machinery, appliances and tools of use in connection therewith, and declaring an emergency," with amendments.

Senate bill No. 92, A bill to be entitled "An Act to amend Chapter 69 and Chapter 124 of the Acts of the Regular Session of the Thirtieth Legislature of the State of Texas, as amended by the Second Called Session of the Thirty-first Legislature, said amended Act being known as Chapter 18, and approved May 12, 1909, transferring the county of Bee from the Twenty-fourth Judicial District to the Thirty-sixth Judicial District, and to change the time of holding district court in said Twenty-fourth and Thirty-sixth Judicial Districts, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk House of Representatives.

FREE CONFERENCE COMMITTEE.

Senator Meachum offered the following motion:

Mr. President: I move that the Senate do not concur in House amendment to Senate Concurrent Resolution No. 13, and that a free conference committee be elected by the Senate, as follows: Ward, Perkins, Bryan, Hudspeth and Murray.

Senator Watson offered the following amendment:

I move to amend by substituting the names of McNealus and Collins for Hudspeth and Murray.

The amendment was lost by the following vote:

Yeas—10.

Cofer.	Ratliff.
Greer.	Real.
Johnson.	Townsend.
Paulus.	Watson.
Perkins.	Weinert.

Nays—13.

Adams.	Mayfield.
Astin.	McNealus.
Bryan.	Meachum.
Collins.	Peeler.
Hudspeth.	Terrell, McLennan.
Hume.	Willacy.
Lattimore.	

31—S.

Present—Not Voting

Carter.	Ward.
Murray.	Warren.
Vaughan.	

Absent.

Kauffman.	Terrell, Wise.
Sturgeon.	

Senator Hudspeth offered the following amendment:

Amend the nominations by substituting the names of Adams, Cofer, Perkins, Willacy and Kauffman.

Senator Watson called for a division of the amendment by Senator Hudspeth.

Senator Cofer moved to table the motion for division of the question, and the chair held that same was not in order, and directed a division of the question.

Action recurred on the amendment, and Senator Adams' name was called.

Senator Adams received the following vote:

Yeas—10.

Astin.	Peeler.
Greer.	Perkins.
Hudspeth.	Watson.
Hume.	Weinert.
Murray.	Willacy.

Nays—7.

Adams.	Meachum.
Bryan.	Paulus.
Cofer.	Terrell, McLennan.
Mayfield.	

Present—Not Voting—11.

Carter.	Terrell, Wise.
Collins.	Townsend.
Lattimore.	Vaughan.
McNealus.	Ward.
Ratliff.	Warren.
Real.	

Absent.

Johnson.	Sturgeon.
Kauffman.	

The above roll call showed no quorum voting, and the chair directed the roll called, a quorum being present, as follows:

Adams.	Astin.
--------	--------

Carter.	Peeler.
Cofer.	Perkins.
Collins.	Ratliff.
Greer.	Real.
Hudspeth.	Terrell, McLennan.
Hume.	Terrell, Wise.
Lattimore.	Townsend.
Mayfield.	Vaughan.
McNealus.	Warren.
Meachum.	Watson.
Murray.	Weinert.
Paulus.	Willacy.

Absent.

Bryan.	Sturgeon.
Johnson.	Ward.
Kauffman.	

The Chair then declared that Senator Adams had been elected a member of the free conference committee.

Senator Cofer's name was called, and he received the following vote:

Yeas—10.

Greer.	Peeler.
Hudspeth.	Perkins.
Mayfield.	Watson.
Meachum.	Weinert.
Paulus.	Willacy.

Nays—8.

Adams.	Hume.
Astin.	Johnson.
Bryan.	Murray.
Cofer.	Terrell, McLennan.

Present—Not Voting—10.

Carter.	Real.
Collins.	Terrell, Wise.
Lattimore.	Townsend.
McNealus.	Ward.
Ratliff.	Warren.

Absent.

Kauffman.	Vaughan.
Sturgeon.	

There being no quorum voting, the Chair directed the roll called, a quorum being present, as follows:

Adams.	Johnson.
Astin.	Lattimore.
Bryan.	Mayfield.
Carter.	McNealus.
Cofer.	Meachum.
Collins.	Murray.
Greer.	Paulus.
Hudspeth.	Peeler.
Hume.	Perkins.

Ratliff.	Ward.
Real.	Warren.
Terrell, McLennan.	Watson.
Townsend.	Weinert.
Vaughan.	Willacy.

Absent.

Kauffman.	Terrell, Wise.
Sturgeon.	

Senator Cofer was then declared elected a member of the committee.

Senator Perkins' name was then called, and he received the following vote:

Yeas—11.

Adams.	Peeler.
Astin.	Terrell, McLennan.
Hudspeth.	Watson.
Hume.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—5.

Bryan.	Lattimore.
Cofer.	Meachum.
Greer.	

Present—Not Voting—13.

Carter.	Real.
Collins.	Terrell, Wise.
Johnson.	Townsend.
Mayfield.	Vaughan.
McNealus.	Ward.
Perkins.	Warren.
Ratliff.	

Absent.

Kauffman.	Sturgeon.
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There being no quorum voting, the Chair directed the roll called, a quorum being present, as follows:

Adams.	Peeler.
Astin.	Perkins.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Townsend.
Hudspeth.	Vaughan.
Hume.	Ward.
Johnson.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Absent.

Bryan.	Kauffman.
--------	-----------

- Lattimore. Sturgeon.
Mayfield. Terrell, Wise.

Senator Perkins was declared elected a member of the committee.

Senator Willacy's name was called, and he received the following vote:

Yeas—9.

Adams.	Peeler.
Astin.	Perkins.
Greer.	Watson.
Hudspeth.	Weinert.
Paulus.	

Nays—6.

Bryan.	Meachum.
Cofer.	Murray.
Lattimore.	Willacy.

Present—Not Voting—12.

Carter.	Ratliff.
Collins.	Real.
Hume.	Terrell, Wise.
Johnson.	Townsend.
Mayfield.	Vaughan.
McNealus.	Warren.

Absent.

Kauffman.	Terrell, McLennan.
Sturgeon.	Ward.

There being no quorum voting, the Chair directed the roll called, a quorum being present, as follows:

Adams.	Murray.
Astin.	Paulus.
Bryan.	Peeler.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Townsend.
Hudspeth.	Vaughan.
Hume.	Warren.
Johnson.	Watson.
Lattimore.	Weinert.
McNealus.	Willacy.
Meachum.	

Absent.

Kauffman.	Sturgeon.
Mayfield.	Terrell, Wise.
Perkins.	Ward.

Senator Willacy was declared elected a member of the committee.

Senator Kauffman's name was then called and he received the following vote:

Yeas—12.

Adams.	Paulus.
Astin.	Peeler.
Greer.	Terrell, McLennan.
Hudspeth.	Watson.
Hume.	Weinert.
Murray.	Willacy.

Nays—4.

Cofer.	Mayfield.
Lattimore.	Meachum.

Present—Not Voting—10.

Carter.	Real.
Collins.	Terrell, Wise.
McNealus.	Townsend.
Perkins.	Vaughan.
Ratliff.	Warren.

Absent.

Bryan.	Sturgeon.
Johnson.	Ward.
Kauffman.	

There being no quorum voting, the Chair directed the roll called, a quorum being present as follows:

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Hume.	Townsend.
Johnson.	Vaughan.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Bryan.	Sturgeon.
Kauffman.	Ward.

Senator Kauffman was declared elected a member of the committee.

Action then recurred on the motion, as amended, and Senator Mayfield moved the previous question on the motion, the same being duly seconded, was so ordered.

The motion by Senator Meachum as amended was then adopted.

REASONS FOR VOTING.

We refuse to vote on the matter of electing members of the Conference

Committee on Senate Concurrent Resolution No. 13, because in our opinion the present proceeding is "stage play" designed to kill time and intended to express contempt on the part of some for the rule adopted by this Senate that Conference Committees shall be appointed by the Senate.

VAUGHAN,
WARREN,
COLLINS,
TOWNSEND,
LATTIMORE,
TERRELL of Wise.
McNEALUS.

HOUSE BILL NO. 83.

The chair laid before the Senate on second reading and regular order,

House bill No. 83, A bill to be entitled "An Act to dissolve the independent school district in the town and vicinity of Kalemey, county of Mason, State of Texas, and described herein by metes and bounds. Said independent school district having been established under the Acts of 1905, Chapter 2, Title 18, Revised Statutes, on February 11 1907, and Article 616, Revised Statutes, 1895, as amended by Chapter 45 of the Twenty-fifth Legislature, 1897, and declaring an emergency."

The committee report, providing that the bill be not printed, was adopted.

Bill read second time, and passed to a third reading.

On motion of Senator Hudspeth the Constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas.—27.

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Hume.	Townsend.
Johnson.	Vaughan.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Bryan.

Kauffman.

Sturgeon.

Ward.

The bill was read third time and passed by the following vote:

Yeas—26.

Adams.	Murray.
Astin.	Paulus.
Carter.	Peeler.
Cofer.	Perkins.
Collins.	Ratliff.
Greer.	Real.
Hudspeth.	Terrell, McLennan.
Hume.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Warren.
Mayfield.	Watson.
McNealus.	Weinert.
Meachum.	Willacy.

Absent.

Bryan.
Kauffman.
Sturgeon.

Vaughan.
Ward.

Senator Hudspeth moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

HOUSE BILL NO. 70.

On motion of Senator Mayfield the pending order of business (House bill No. 161) was suspended, and the Senate took up, out of its order, House bill No. 7, by the following vote:

Yeas—22.

Adams.	Murray.
Astin.	Paulus.
Carter.	Peeler.
Collins.	Perkins.
Greer.	Ratliff.
Hudspeth.	Real.
Hume.	Terrell, McLennan.
Johnson.	Townsend.
Lattimore.	Warren.
Mayfield.	Weinert.
Meachum.	Willacy.

Nays—3.

McNealus.
Terrell, Wise.

Vaughan.

Present—Not Voting.

Cofer.

Absent.

Bryan.
Kauffman.
Sturgeon.

Ward.
Watson.

The Chair laid before the Senate on second reading

House bill No. 70, A bill to be entitled "An Act creating and incorporating the Indian Gap Independent School District in Hamilton county, Texas, and defining its boundaries."

The committee report providing that the bill be not printed was adopted.

Bill read second time, and passed to a third reading.

On motion of Senator Mayfield the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Hume.	Townsend.
Johnson.	Vaughan.
Lattimore.	Ward.
Mayfield.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Bryan.
Kauffman.

Sturgeon.

The bill was read third time and passed by the following vote:

Yeas—28.

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Hume.	Townsend.
Johnson.	Vaughan.
Lattimore.	Ward.
Mayfield.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Bryan.
Kauffman.

Sturgeon.

Senator Mayfield moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

HOUSE BILL NO. 5.

On motion of Senator Johnson the regular order business (House bill No. 161) was suspended, and the Senate took up, out of its order, House bill No. 5, by unanimous consent.

The Chair laid before the Senate on second reading

House bill No. 5, A bill to be entitled "An Act to amend Section 10, Chapter 36 of the Acts of the First Called Session of the Thirty-first Legislature, being an Act defining and regulating fraternal beneficiary associations and repealing Chapter 115 of the General Laws of the Twenty-sixth Legislature of Texas, as amended by Chapter 86 of the General Laws of the Twenty-eighth Legislature, and by Chapter 106 of the General Laws of the Twenty-ninth Legislature, and declaring an emergency."

Bill read second time and passed to a third reading.

On motion of Senator Johnson, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Adams.	Paulus.
Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Hume.	Townsend.
Johnson.	Vaughan.
Lattimore.	Ward.
Mayfield.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Bryan.
Kauffman.

Sturgeon.

The bill was read third time and passed by the following vote:

Yeas—27.

Adams.	Peeler.
Astin.	Perkins.
Carter.	Ratliff.
Cofer.	Real.
Collins.	Terrell, McLennan.
Greer.	Terrell, Wise.
Hudspeth.	Townsend.
Johnson.	Vaughan.
Lattimore.	Ward.
Mayfield.	Warren.
McNealus.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Absent.

Bryan.	Kauffman.
Hume.	Sturgeon.

Senator Johnson moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

(President Pro Tem. Hudspeth in the chair.)

HOUSE BILL NO. 109.

On motion of Senator Terrell of McLennan, the regular order of business (House bill No. 161) was suspended, and the Senate took up, out of its order, House bill No. 109, by the following vote:

Yeas—24.

Astin.	Paulus.
Carter.	Peeler.
Cofer.	Perkins.
Collins.	Ratliff.
Greer.	Real.
Hudspeth.	Terrell, McLennan.
Hume.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—3.

McNealus.	Warren.
Vaughan.	

Absent.

Adams.	Kauffman.
Bryan.	Sturgeon.

The Chair laid before the Senate on second reading

House bill No. 109, A bill to be entitled "An Act making it a misdemeanor to sell, give away or drink or permit to be sold, given away or drunk, spirituous, vinous or malt liquors, whether producing intoxication or not, in any bawdy house, disorderly house or assignation house; defining a bawdy house, a disorderly house, assignation house, providing a penalty for the violation of this Act, and declaring an emergency."

Bill read second time and passed to a third reading.

On motion of Mr. Terrell of McLennan the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—26.

Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
Mayfield.	Ward.
McNealus.	Warren.
Meachum.	Watson.
Murray.	Weinert.
Paulus.	Willacy.

Nays—1.

Hume.

Absent.

Adams.	Kauffman.
Bryan.	Sturgeon.

The bill was read third time and passed by the following vote:

Yeas—25.

Astin.	Peeler.
Carter.	Perkins.
Cofer.	Ratliff.
Collins.	Real.
Greer.	Terrell, McLennan.
Hudspeth.	Terrell, Wise.
Johnson.	Townsend.
Lattimore.	Vaughan.
Mayfield.	Ward.
McNealus.	Warren.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—1.

Hume.

Absent.

Adams. Sturgeon.
Bryan. Watson.
Kauffman.

Senator Terrell of McLennan moved to reconsider the vote by which the bill was passed and lay that motion on the table.

The motion to table prevailed.

SENATE BILL NO. 266.

On motion of Senator Ward the regular order of business (House bill No. 161) was suspended and the Senate took up, out of its order, Senate bill No. 266, by the following vote:

Yeas—22.

Adams. Peeler.
Astin. Perkins.
Carter. Ratliff.
Cofer. Real.
Hudspeth. Terrell, McLennan.
Hume. Terrell, Wise.
Johnson. Townsend.
Mayfield. Ward.
Meachum. Warren.
Murray. Weinert.
Paulus. Willacy.

Nays—2.

Collins. Lattimore.

Present—Not Voting.

McNealus. Vaughan.

Absent

Bryan. Sturgeon.
Greer. Watson.
Kauffman.

On motion of Senator Ward the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its second reading by the following vote:

Yeas—25.

Adams. Collins.
Astin. Hudspeth.
Carter. Hume.
Cofer. Johnson.

Lattimore.
Mayfield.
McNealus.
Meachum.
Murray.
Paulus.
Peeler.
Perkins.
Ratliff.

Real.
Terrell, McLennan
Terrell, Wise.
Townsend.
Vaughan.
Ward.
Weinert.
Willacy.

Absent

Bryan. Sturgeon.
Greer. Warren.
Kauffman. Watson.

On motion of Senator Ward, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report).

The committee report, which provided that the bill be not printed, was adopted.

The Chair laid before the Senate on second reading,

Senate bill No. 266, "An Act creating a special road law for Ellis county."

Bill read second time and ordered engrossed.

On motion of Senator Ward, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—24.

Adams. Paulus.
Astin. Peeler.
Carter. Perkins.
Cofer. Real.
Collins. Terrell, Wise.
Hudspeth. Townsend.
Hume. Vaughan.
Johnson. Ward.
Lattimore. Warren.
Mayfield. Watson.
McNealus. Weinert.
Meachum. Willacy.

Absent.

Bryan. Ratliff.
Greer. Sturgeon.
Kauffman. Terrell, McLennan.
Murray.

The bill was read third time and passed by the following vote:

Yeas—25.		Kauffman.	Sturgeon.
Adams.	Paulus.	Ratliff.	Ward.
Astin.	Peeler.	REFUSED TO ADJOURN.	
Carter.	Perkins.	Senator Weinert, at 6:25 o'clock	
Cofer.	Real.	p. m. moved that the Senate adjourn	
Collins.	Terrell, Wise.	until 10 o'clock tomorrow morning.	
Hudspeth.	Townsend.	Senator Lattimore moved, as a sub-	
Hume.	Vaughan.	stitute that the Senate recess until	
Johnson.	Ward.	8:30 o'clock tonight.	
Lattimore.	Warren.	Action recurred on the longest time	
Mayfield.	Watson.	first, and the motion to adjourn was	
McNealus.	Weinert.	lost by the following vote:	
Meachum.	Willacy.	Yeas—13.	
Murray.		Adams.	Peeler.
Absent.		Astin.	Real.
Bryan.	Ratliff.	Hudspeth.	Terrell, McLennan
Greer.	Sturgeon.	Hume.	Watson.
Kauffman.	Terrell, McLennan	Mcachum.	Weinert.
Senator Ward moved to reconsider		Murray.	Willacy.
the vote by which the bill was passed,		Paulus.	
and lay that motion on the table.		Nays—13.	
The motion to table prevailed.		Carter.	Perkins.
SENATE BILL NO. 240—REFUSED		Cofer.	Terrell, Wise.
TO TAKE UP.		Collins.	Townsend.
Senator Willacy moved that the		Johnson.	Vaughan.
regular order of business (House bill		Lattimore.	Ward.
No. 161) be suspended, and the Sen-		Mayfield.	Warren
ate take up, out of its order, Senate		McNealus.	
bill No. 240.		Absent.	
The motion was lost by the follow-		Bryan.	Ratliff.
ing vote, a four-fifths vote being		Greer.	Sturgeon.
necessary:		Kauffman.	
Yeas—17.		Action recurred on the motion to	
Adams.	Peeler.	recess until 8:30 o'clock tonight, and	
Astin.	Perkins.	the same was lost by the following	
Carter.	Real.	vote:	
Hudspeth.	Terrell, McLennan	Yeas—12.	
Hume.	Townsend.	Carter.	McNealus.
Johnson.	Watson.	Cofer.	Terrell, Wise.
Meachum.	Weinert.	Collins.	Townsend.
Murray.	Willacy.	Johnson.	Vaughan.
Paulus.		Lattimore.	Ward.
Nays—6.		Mayfield.	Warren
Cofer.	Mayfield.	Nays—14.	
Collins.	Vaughan.	Adams.	Murray.
Lattimore.	Warren.	Astin.	Paulus.
Present—Not Voting.		Hudspeth.	Peeler.
McNealus.	Terrell, Wise.	Hume.	Perkins.
Absent.		Meachum.	Real.
Bryan.	Greer.		

Terrell, McLennan, Weinert.
Watson. Willacy.

Absent.

Bryan. Ratliff.
Greer. Sturgeon.
Kauffman.

REFUSED TO TAKE UP BILL.

Senator Watson moved that the regular order of business (House bill No. 161) be suspended, and the Senate take up, out of its order, Senate bill No. 32.

Senator Cofer moved as a substitute that the regular order of business (House bill No. 161) be suspended, and the Senate take up, out of its order, Senate bill No. 1.

Senator Watson moved to table the substitute motion, which motion to table was lost by the following vote:

Yeas—12.

Adams. Paulus.
Astin. Peeler.
Hudspeth. Terrell, McLennan
Hume. Watson.
Meachum. Weinert.
Murray. Willacy.

Nays—14.

Carter. Perkins.
Cofer. Real.
Collins. Terrell, Wise.
Johnson. Townsend.
Lattimore. Vaughan.
Mayfield. Ward.
McNealus. Warren

Absent

Bryan. Ratliff.
Greer. Sturgeon.
Kauffman.

ADJOURNMENT.

On motion of Senator Murray, the Senate, at 6:35 o'clock p. m., adjourned until 10 o'clock tomorrow, by the following vote:

Yeas—15.

Adams. Murray.
Astin. Paulus.
Hudspeth. Peeler.
Hume. Perkins.
Meachum. Real.

Terrell, McLennan, Weinert.
Terrell, Wise. Willacy.
Watson.

Nays—11.

Carter. McNealus.
Cofer. Townsend.
Collins. Vaughan.
Johnson. Ward.
Lattimore. Warren
Mayfield.

Absent.

Bryan. Ratliff.
Greer. Sturgeon.
Kauffman.

APPENDIX.

COMMITTEE REPORTS.

(Floor Report.)

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Towns and City Corporations, to whom was referred

House bill No. 326, A bill to be entitled "An Act to grant a charter to the City of Houston Heights, in Harris county, Texas; defining the territorial limits, setting forth and defining its powers and duties; providing a system of taxation; providing for the election of officers; and repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and beg to report same back to the Senate with the recommendation that it do pass, and be not printed.

Meachum, Chairman; Terrell of McLennan, Hudspeth, McNealus, Lattimore, Vaughan, Collins, Peeler, Perkins, Hume.

Committee Room,

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Judiciary No. 1, to whom was referred Senate bill No. 260, A bill to be entitled "An Act creating a State Racing Commission, providing for the appointment of the members thereof, their tenure of office, defin-

ing their duties and powers, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WARD, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Judiciary No. 1, to whom was referred

Senate bill No. 257, A bill to be entitled "An Act to authorize stock yards or stock yard companies receiving or unloading or shipping livestock to issue certificates to the owner thereof, or person in charge, and weighers of such livestock connected with such yards, to issue such certificates of weight; and to authorize commission men buying and selling livestock to issue their accounts of sale or accounts of purchase, to be used in evidence in any of the courts of the State of Texas, and declaring an emergency."

Have had the same under consideration, and I am instructed by the committee to report it back to the Senate with the recommendation that it do pass.

WARD, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Judiciary No. 1, to whom was referred

Senate bill No. 259, A bill to be entitled "An Act to amend Article 4316 of the Revised Civil Statutes of 1895, as amended by the Twenty-ninth Legislature, Acts of 1905, page 117, and declaring an emergency."

Have had the same under consideration, and I am instructed by the committee to report it back to the Senate with the recommendation that it do pass.

WARD, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Public Lands and Land Office, to whom was referred

Senate bill No. 247, A bill to be entitled "An Act to validate the sale of the public free school and asylum lands made by the Commissioner of

the General Land Office, where such sales may be defective from any cause, and to quiet the titles thereto, and to provide for issuance of patents thereto, and declaring an emergency."

Have had the same under consideration, and I am instructed by the committee to report the same back to the Senate with the recommendation that it do pass.

MURRAY, Chairman.

(Floor Report.)

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

Senate bill No. 240, "An Act to reorganize the twenty-eighth Judicial District of the State of Texas, to fix the times for holding the terms of court therein; and to repeal all laws and parts of laws in conflict therewith, and declaring an emergency."

Beg leave to report that we have had this bill under consideration, and recommend that same do pass with the following amendment, and be not printed.

Amendment:

Strike out all of Section No. 1 of the bill and substitute the following in lieu thereof:

"Section 1. In the county of Starr on the second Monday in March and the second Monday in October of each year and may continue in session two weeks.

In the county of Hidalgo on the second Monday after the second Monday in March and October of each year, and may continue in session three weeks.

In the county of Cameron on the fifth Monday after the second Monday in March and October of each year, and may continue in session six weeks.

In the county of Nueces on the eleventh Monday after the second Monday in March and October of each year, and may continue in session six weeks.

In the county of Duval on the seventeenth Monday after the second Monday in March and October of each year, and may continue in session two weeks.

Hudspeth, Chairman; Hume, McNealus, Kauffman, Meachum, Watson, Peeler, Carter, Murray. Weinert, Paulus

Committee Room,
Austin, Texas, Feb. 14, 1911.
Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

House bill No. 67, A bill to be entitled "An Act to require the inspection of air brakes and attachments and the testing of brakes on all trains operated on all lines of railroads in this State, by competent inspectors, and providing a penalty for the violation thereof."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

KAUFFMAN, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 14, 1911.
Hon. A. B. Davidson, President of the Senate.

Sir: We, a majority of your Committee on Internal Improvements, to who was referred

Senate bill No. 173, A bill to be entitled, "An Act to require that in moving any train, locomotive or car, over any Railway track, or street which travelers or the public have the right to use, the person or persons in charge of or entrusted with the operation of such train, locomotive or car, shall use ordinary care to keep a lookout to discover and avoid injury to persons at or using or about to use such crossing or place; and to provide that a failure on the part of the person or persons in charge of or entrusted with the operation of any train, locomotive or car, to use such care, shall render such person or persons, and his or their employer the owner, lessee, operator or receiver of such railway or street railway, liable to any person injured, or in case death results from such failure to use such care, then to the person or persons entitled under the law to maintain action for the death of the person killed, for all such damages as may result from the failure of such person or persons in charge or entrusted with the operation of such train, locomotive or car, to use such care as is imposed by the provisions of this Act; and to provide that contributory negligence of the person injured or killed through the failure to use such care as is imposed by the provisions of this Act, shall not be a

defense against any action to recover damages for such injury or death, when by the exercise of such care as is imposed by this Act, the person or persons in charge of or entrusted with the operation of such train, locomotive or car, could have discovered the person injured or killed to be in or exposed to danger, in time by the exercise of ordinary care on their part, to have avoided killing or injuring such person.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass.

KAUFFMAN, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 14, 1911.
Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Committee on Internal Improvements, to whom was referred

Senate bill No. 173, A bill to be entitled "An Act to require that in moving any train, locomotive or car, over any railway track, or street railway track, toward any crossing or other place on such track, which travelers or the public have the right to use, the person or persons in charge of or entrusted with the operation of such train, locomotive or car, shall use ordinary care to keep a lookout to discover and avoid injury to persons at or using or about to use such crossing or place; and to provide that a failure on the part of the person or persons in charge of or entrusted with the operation of any train, locomotive or car, to use such care, shall render such person or persons, and his or their employer, the owner, lessee, operator or receiver of such railway or street railway, liable to any person injured, or in case death results from such failure to use such care, then to the person or persons entitled under the law to maintain an action for the death of the person killed, for all such damages as may result from the failure of such person or persons in charge or entrusted with the operation of such train, locomotive or car, to use such care as is imposed by the provisions of this Act; and to provide that contributory negligence of the person injured or killed through the failure to use such care as is imposed by the provisions of this Act, shall

not be a defence against any action to recover damages for such injury or death, when by the exercise of such care as is imposed by this Act, the person or persons in charge of or entrusted with the operation of such train, locomotive or car, could have discovered the person injured or killed to be in or exposed to danger, in time by the exercise of ordinary care on their part, to have avoided killing or injuring such person.

Have had the same under consideration, and I beg leave to report it back to the Senate with the recommendation that it do not pass.

REAL.

Committee Room,

Austin, Texas, Feb. 14, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

Senate bill No. 177, A bill to be entitled "An Act to enable the people of the arid sections of this State to receive the benefits of the United States Reclamation Act, by declaring that water users associations organized under the authority of such Act and the regulations of the Department of the Interior of the United States, to be not subject to charter fees and franchise taxes, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

KAUFFMAN, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on State Affairs, to whom was referred

Senate bill No. 216, A bill to be entitled "An Act to appropriate and transfer the surplus remaining in the quarantine fee fund at Galveston Station to the Board of Regents of the University of Texas for the purpose of erecting, equipping and repairing such buildings as may be necessary to enable the John Sealy Hospital, as a part of the Medical Department of the University of Texas, to properly care for cases of contagious diseases, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report

same back to the Senate with the recommendation that it do pass, with the following committee amendments:

Amend the bill by striking out after the words An Act, the words "to appropriate and transfer," and in lieu thereof insert the following: "appropriating and transferring, \$13,042.30."

Amend Section 1, by striking out "all" in the first line of section, and inserting the word "the" and striking out the word "or" in line 2 of the bill and inserting in lieu thereof the following: "amounting to \$13,042.30 being."

PEELER, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on State Affairs, to who was referred

Senate bill No. 245, A bill to be entitled "An Act to more clearly define who are Confederate soldiers under the pension laws of this State, and declaring what persons shall be included in the term "Confederate Soldiers," as used in Chapter 118 of the General Laws of the Regular Session of the Thirty-first Legislature, and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

PEELER, Chairman.

(Floor Report.)

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

Senate bill No. 266, A bill to be entitled "An Act to create a special road system for Ellis county, Texas, and making the county commissioners ex officio road commissioners, and providing for the appointment of deputy road commissioners, and prescribing their powers and duties as such, and providing compensation for such road commissioners, and providing for the condemnation of lands and other property by said county for the purpose of laying out and establishing roads and for straightening, widening or draining any established road, and for the condem-

nation of any timber, earth, sand, clay, gravel or other material for the construction and maintenance of public roads, and providing for the working of the county convicts upon the county roads and the purchase of supplies therefor, and providing for the capture of escaped county convicts, and for the commutation of sentence for faithful service and good behavior; and providing that every person liable for road duty shall pay a three (\$3.00) dollars road tax exempting such persons paying the same from road duty for each year for which said road taxes were paid, and providing that delinquent poll tax payers shall be liable for extra road duty of three days, and providing for the manner of summoning and working of all persons liable for road duty on the public roads who have not paid such road tax or such poll tax, and permitting substitution and the payment of money in lieu of such service, and fixing the allowance of time for service of hands and teams on such public road; and making it a misdemeanor for every person subject to public road duty or extra road duty, who has not paid such taxes nor furnished a substitute nor paid money in lieu of such service for time summoned, to fail or refuse to attend at any time and place designated by the person summoning him, when summoned or fail to do good service upon said roads, and upon conviction thereof shall be fined in any sum not exceeding ten (\$10.00) dollars; and to require railroad companies to ditch and drain their right of way upon order of the commissioners court, and upon failure after sixty days notice to do so, authorizing the commissioners court to do same at such railroad company's expense; and making this Act cumulative of the general and special laws now in force not in conflict herewith and to repeal all laws in conflict with this Act, and declaring an emergency."

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Greer, Chairman; Weinert, Paulus, Johnson, Perkins, Ratliff.

Committee Room,
Austin, Texas, Feb. 15, 1911.
Hon. A. B. Davidson, President of
the Senate.

Sir: Your Committee on Public Health, to whom was referred

Senate bill No. 99, A bill to be entitled "An Act to prohibit and prevent adulteration, fraud and deception and misbranding in the manufacture and sale of articles of food and drugs, and to regulate the sale of concentrated commercial feeding stuffs and the materials from which they are manufactured; defining concentrated feeding stuffs, prohibiting their adulteration providing for their correct weighing and marking, for the collection of samples, and providing that the inspection tax and penalties collected under this Act shall be used by the Dairy and Food Commissioner in the enforcement of this Act; prescribing penalties for the violation of this Act; providing for the appointment of a Dairy and Food Commissioner, and defining his powers and duties; also to provide for the appointment of inspectors, chemists and other assistants, and fixing the compensation of the Dairy and Food Commissioner, and the inspectors, chemists and other assistants, provided for by this Act, and to repeal all laws in conflict with the provisions of this Act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass, but that Committee Substitute Bill be adopted in lieu thereof, copy of which is hereto attached.

PEELER, Chairman.

A bill to be entitled "An Act to prohibit and prevent adulteration, fraud and deception and misbranding in the manufacture and sale of articles of food and drugs, prescribing penalties for the violation of this Act, to provide for the appointment of a Dairy and Food Commissioner, and to define his powers and duties; also to provide for the appointment of inspectors, chemists and other assistants and to fix the compensation of the Dairy and Food Commissioner, and the inspectors, chemists and assistants provided for by this Act, and to repeal all laws in conflict with the provisions of this Act, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That no person, firm, or corporation shall within this State manufacture for sale, have in his

possession with the intent to sell, offer or expose for sale, or sell or exchange any article of food, or drug which is adulterated or misbranded within the meaning of this Act. The term "food" as used herein shall include all articles used for food, drink, flavorings, confectionery or condiment, by man, whether simple, mixed or compound. That the term "drug" as used in this Act shall include all medicines and preparations for internal or external use recognized in the United States Pharmacopoeia or National Formulary, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animal.

Sec. 2. That for the purposes of this Act an article shall be deemed to be adulterated:

(a) In the case of drugs: (1) If, when sold under or by a name, recognized in the eighth decennial revision of the United States Pharmacopoeia or in such United States Pharmacopoeia as was official at the time of labeling it, or in the National Formulary, it differs from the standard strength, quality or purity laid down therein; (2) if, when sold under or by a name not recognized in the eighth decennial revision of the United States Pharmacopoeia, but which is found in some other pharmacopoeia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work; (3) if its strength, quality or purity falls below the professed standard under which it is sold.

(b) In the case of confectionery: If it contains terra alba, barytes, talc, chrome yellow or other mineral substance, or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

(c) In the case of food: (1) If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; (2) if any substance has been substituted wholly or in part for the article; (3) if any valuable constituent of the article has been wholly or in part abstracted, or if the product be below that standard of quality, quantity, strength or purity represented to the purchaser or consumer; (4) if it be

or stained in a manner whereby damage or inferiority is concealed; (5) if it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health, provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this Act shall be construed as applying only when said products are ready for consumption; (6) if it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. For the purpose of this Act the term "filthy" shall be deemed to apply to food not securely protected from flies, dust, dirt, and as far as may be necessary by all reasonable means from all foreign or injurious contaminations.

Sec. 3. That the term "misbranded," as used herein, shall apply to all drugs or other article of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular.

That for the purposes of this Act an article shall also be deemed to be misbranded:

(a) In the case of drugs; (1) if it be an imitation of or offered for sale under the name of another article; (2) if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any morphine, phenacetin, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substances contained therein.

(b) In case of food; (1) If it be an imitation of or offered for sale under the distinctive name of another

article; (2) if it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, phenacetin, chloroform, cannabis indica, chloral hydrate or acetanilid, or any derivative or preparation of any of such substances contained therein; (3) if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package; (4) if the package containing it or its labels bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular, provided, that an article of food which does not contain any added poisonous or deleterious ingredient shall not be deemed to be adulterated or misbranded in the following cases: First in case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced; second, in the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends; that the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided, further, that nothing in this Act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except in so far as the provisions of this Act may require to secure freedom from adulteration or misbranding.

Sec. 4. It shall be unlawful for any person to manufacture, sell, offer or expose for sale, or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoates, sulphurous

acid or sulphites, salicylic acid or salicylates, abradol, beta naphthol, fluorine compounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acid except phosphoric acid, any preparation of lead or copper or other ingredient injurious to health; provided that nothing in this Act shall be construed as prohibiting the sale of catsups, sauces, concentrated fruits, fruit juices, and like substances, preserved with one-tenth of one per cent of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated upon the label; provided, further, that the oxides of sulphur may be used for bleaching, clarifying and refining food products.

Sec. 5. Whoever manufactures for sale within this State, or offers or exposes for sale or exchange or sells, any baking powder or compound intended for use as a baking powder under any name or title whatsoever, shall securely affix or cause to be securely affixed to the outside of every box, can or package containing such baking powder or like mixture, or compound, a label distinctly printed in plain capital letters in the English language, containing the name and residence of the manufacturer or dealer, and the ingredients of the baking powder. Baking powder containing less than 10 per cent of available carbon dioxide shall be deemed to be adulterated.

Sec. 6. That it shall be unlawful for any person either by himself or agent, to sell or expose for sale or exchange any unwholesome, watered, adulterated or impure milk, or swill milk or colostrum, or milk from cows kept upon garbage, swill or any other substance in a state of putrefaction or other deleterious substances, or from cows kept in connection with any family in which there are infectious diseases, or from sick or diseased cows; provided, "skim milk" may be sold if on the can, or package from which such milk is sold, the words "skim milk" are distinctly painted in letters not less than one inch in length.

Sec. 7. That no dealer shall be prosecuted under the provisions of this Act, when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing within this State or in the United States from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within

the meaning of this Act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this Act.

Sec. 8. Whoever shall do any of the acts or things prohibited, or willfully neglect or refuse to do any of the acts or the things enjoined by this Act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than \$25.00 nor more than \$200.00.

Sec. 9. Immediately after the taking effect of this Act, or as soon thereafter as practicable, the Governor shall appoint a suitable person to be Dairy and Food Commissioner, who shall be a practical analytical chemist and bacteriologist, which office is hereby created, and which commissioner so appointed shall hold office for a term of two years or until his successor is appointed and qualified. Said Commissioner shall receive an annual salary of \$2000.00.

Before entering upon the duties of his office he shall subscribe and file in the office of the Secretary of State an oath of office in the form prescribed by law, and shall enter into bond with the State of Texas, in the sum of \$10,000.00, with sureties to be approved by the Governor, conditioned for the faithful performance of his duties.

Sec. 10. The Governor shall have the power to remove such Commissioner at any time in his discretion, and in case of vacancy in the office of Commissioner from any cause, the Governor may appoint another person to fill the same.

Sec. 11. The said Commissioner is hereby authorized and empowered, with the advice and consent of the Governor, to appoint two assistant chemists. The salaries of the assistant chemists shall be \$1500.00 per annum each. The assistant chemists shall each enter into bond with the State of Texas in the sum of \$5,000 with sureties to be approved by the Governor, conditioned for the faithful performance of their duties.

Sec. 12. The Commissioner shall appoint a stenographer for the transaction of the business of his office. Said stenographer shall receive an annual salary of \$900.00.

Sec. 13. The Commissioner shall

have power to appoint two inspectors at a salary of not to exceed \$1200.00 per annum each, whose duties it shall be to collect samples of foods and drugs and make such inspection of foods and drugs, and places where foods and drugs are manufactured, or kept for sale, and to perform such other duties as may be prescribed and directed by the Commissioner, according to his rules and regulations.

Sec. 14. The actual and necessary expenses of the Dairy and Food Commissioner and his assistants and deputies in the performance of their official duties shall be paid by the State. The accounts for the same shall be audited by the Comptroller and paid upon his warrant being drawn upon the State Treasury.

Sec. 15. The office and laboratory of the Dairy and Food Commissioner shall be at the State Capitol, and office and laboratory room shall be furnished in the Capitol building.

Sec. 16. It shall be the duty of the Dairy and Food Commissioner, or any inspector or deputy appointed by him, to carefully inquire into the quality of the foods and drug products manufactured or sold, or exposed for sale, or offered for sale in this State, and they may in a lawful manner procure samples of the same and make due and careful examination and analysis of all or of any such food and drug products, to discover if the same are adulterated, or misbranded, impure, or unwholesome, in contravention of this Act, and it shall be the duty of the Commissioner to make complaint against the manufacturer or vendor thereof, in the proper county, and furnish the evidence therein and thereof to obtain a conviction for the offense charged. The Dairy and Food Commissioner, or his inspectors, or any person by him duly appointed for that purpose shall make complaint and cause proceedings to be commenced against any person for the violation of any of the laws relative to adulterated, misbranded, impure or unwholesome food, and in such case he shall not be obliged to furnish security for costs; and he shall have power in the performance of his duties to enter into any creamery, factory, store, salesroom, drug store or laboratory, or place where he has reason to believe foods or drugs are made, prepared, sold or offered for sale or exchange, and to open any cask, tub, jar, bottle or package containing or supposed to

contain any article of food or drug and examine or cause to be examined the contents thereof, and take therefrom samples for analysis. The persons making such inspection shall take such sample of such article or products and he shall mark or seal such sample and shall tender at the time of taking it to the manufacturer or vendor of such product or to the person having the custody of the same, the value thereof, and a statement in writing of the reason for taking such sample. It shall also be the duty of the Dairy and Food Commissioner to formulate, publish and enforce such rules and regulations as may be necessary to enforce this Act, and he shall adopt the standards for foods, food products, beverages, drugs, etc., and the methods of analysis authorized as official by the United States Department of Agriculture in so far as they are applicable in the light of modern discovery and scientific research.

Sec. 17. It shall be unlawful for the Dairy and Food Commissioner or his deputy or assistants while they hold office to furnish to any individual, firm or corporation any certificate as to the purity or excellence of any article manufactured or sold to or by them to be used as food or drug or in the preparation of foods or drugs.

Sec. 18. The Commissioner shall make an annual report to the Governor on or before the thirty-first day of August in each year which shall be printed and published at the expense of the State, which report shall cover the entire work of his office for the preceding year, and shall show among other things, the number of manufactories and other places inspected and by whom, the number of specimens of food and drug articles analyzed, and the number of complaints entered against any person or persons for the violation of the laws relative to the adulteration of foods and drugs, the number of convictions had and the amount of fines imposed therefor, together with such recommendations relative to the statutes in force as his experience may justify.

Sec. 19. Any person who shall wilfully hinder or obstruct the Dairy and Food Commissioner, or his inspector or other person by him duly authorized in the exercise of the powers conferred upon him by this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be

punished by a fine or not less than \$25.00 nor more than \$200.00.

Sec. 20. The Commissioner is hereby empowered with authority to issue bulletins quarterly or as often as in his judgment he may deem advisable, showing the work of the Commissioner. And he shall give notices of the judgments of the courts, by publication in such manner as he may prescribe by the rules and regulations, and the expenses of such publications shall be paid by the State.

Sec. 21. That any article of food or drug that is adulterated or misbranded within the meaning of this Act shall be liable to be condemned, confiscated and forfeited by a suit to be brought in the District Court of the county where said article of food or drug is located by a suit to be filed in said court in the name of the State of Texas as plaintiff, and in the name of the owner thereof as defendant, if said owner be known; if he be unknown, then in the name of said article of food or drug, and service shall be obtained in said cases in the same manner that the law provides that service shall be obtained in civil cases. That upon a trial of said case if it be determined by the court or jury trying said case that said article of food or drug is misbranded or adulterated, or of a poisonous or deleterious character within the meaning of this Act, the same shall be disposed of by destruction or sale and in accordance with the judgment of the court, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of this State. And it is hereby made the duty of the different district and county attorneys in this State to file forfeiture and condemnation suits under this article at the request of the Dairy and Food Commissioner, and said district or county attorneys, as the case may be, shall be entitled to a fee of \$15.00 to be paid out of the proceeds arising from the sale of the property condemned, said fee to be in addition to all other fees allowed by law, and shall be over and above the fees allowed under the General Fee Act of this State.

It is further provided, that upon payment of the costs of such forfeiture or condemnation proceeding by the owner of the property proceeded against and by his executing and delivering a good and sufficient bond in double the value of the goods proceeded against,

payable to the State of Texas, conditioned that said articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the court may by order direct that said goods be delivered to the owner thereof. In all proceedings begun under this section, either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the State of Texas.

Sec. 22. The sum of \$1800.00, or as much thereof as may be necessary, is hereby appropriated and set aside for the purpose of carrying into effect this Act for the remainder of the fiscal year ending August 31, 1911.

Sec. 23. All manufacturers of foods and drugs doing business in the State of Texas, or all such persons as shall bring into and offer for sale within this State any article or food or drug shall register their firm names and addresses with the Dairy and Food Commissioner, and shall pay to said Commissioner a fee of \$1.00 for such registration on or before the first day of September of each year. Such fees shall be turned over by the Commissioner to the State Treasurer and set apart as a fund to be known as "The Pure Food Fund," which fund, or as much thereof as may be necessary, may, with the advice and consent of the Governor, be used by the Commissioner for paying the expenses of the Dairy and Food Commissioner's Department. The amounts for such expenses shall be audited by the Comptroller upon his warrant drawn upon the State Treasury.

Sec. 24. The said Dairy and Food Commissioner shall be authorized to appoint such additional inspectors, chemists, clerks, and other additional assistance as in his judgment may be necessary whose compensation shall be paid out of the registration fees and penalties collected by the Commissioner.

Sec. 25. The Dairy and Food Department shall assist the State Board of Health in such manner and at times as may be necessary for protecting the public health of the State.

Sec. 26. Chapter 94, Acts of the Thirty-first Legislature, and any and all other laws in conflict herewith are hereby repealed.

Sec. 27. Whereas, The existing Pure Food Law regulating the sale of

misbranded and adulterated food and drugs, on the Statute books of Texas is inadequate, and emergency therefore exists that the rule requiring bills to be read on three several days be suspended, and that this bill be placed upon its final passage, and the rule is hereby suspended, and that this bill take effect and be enforced from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, Feb. 16, 1911.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 188, A bill to be entitled "An Act to amend Section 14 of special road law of Johnson county, passed at the Regular Session of the Twenty-ninth Legislature.

And find the same correctly engrossed.

COFER, Chairman.

PETITIONS AND MEMORIALS.

By Senators Adams and Astin:

Petition numerous signed by citizens of their district protesting against the passage of House bill No. 319, which seeks to tax itinerant vendors of medicine \$375.00 annually.

By Senators Terrell of McLennan, Lattimore, Collins, Cofer, Townsend, Weinert, Warren, Perkins and Kauffman:

Petitions numerous signed by citizens of their respective districts urging the passage of an optometry law along the lines of the law passed by the State of New York and other states.

By Senator McNealus:

Individual letters signed by Ed Sewell, R. M. Means, Barry Miller, L. L. Wood, Houston Wood, W. D. Fyke and J. T. Brake, urging support of any measure which may be presented looking to an increase in the salaries of the Judges of the Appellate Courts.

By Senator McNealus:

Telegram signed by the Dallas Mothers' Council urging support of the compulsory education bill.

By Senator Carter:

Petition numerous signed by

citizens of Harrison county asking the Legislature to fix a just basis of settlement between the owners of surface lands in the vicinity of Caddo oil field and the State whereby the Land Commissioner may be authorized to dispose of the mineral rights in order that development of Marion and Harrison counties might proceed.

By Senator McNealus:

Petition numerously signed by citizens of his district favoring the enactment of the Coffey bill No. 28.

By Senators Murray and Real:

Petition numerously signed by citizens of their respective districts urging the enactment of the following Farmers' Union measures:

House bill No. 99 and Senate bill No. 23.

House bill No. 32 and Senate bill No. 46.

House bill No. 124 and Senate bill No. 82.

By Lieutenant Governor Davidson:

Telegram from Texas Hardware Jobbers' Association, in session at Houston, expressing unanimous endorsement of House bill 77, in reference to sale of pistols, and condemning Cable bill in reference to venue.

By Senator Murray:

Petition numerously signed by engineers of his district seeking support of the Legislature in having the Senate Committee on Postoffice and Post Roads of Congress to report House Resolution bill No. 22239 to the Senate for action.

By Senator Ratliff:

Petition numerously signed by citizens of his district requesting support of the Terrell amendment to the I. & G. N. bill.

TWENTY-FIFTH DAY.

Senate Chamber,
Austin, Texas.

Friday, Feb. 17, 1911.

The Senate met pursuant to adjournment, and was called to order by Lieutenant Governor Davidson.

Roll call, quorum being present, the following Senators answering to their names:

Adams.
Astin.

Bryan.
Carter.

Cofer.
Collins.
Greer.
Hudspeth.
Hume.
Johnson.
Kauffman.
Lattimore.
Mayfield.
McNealus.
Meachum.
Murray.
Paulus.
Peeler.

Perkins.
Ratliff.
Real.
Sturgeon.
Terrell, McLennan.
Terrell, Wise.
Townsend.
Vaughan.
Ward.
Warren.
Watson.
Weinert.
Willacy.

Prayer by Dr. Geo. Butler of Austin.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins, the same was dispensed with.

REGULAR ORDER.

The Chair called the regular order of business. (See Appendix for committee reports and petitions and memorials.)

(Senator Willacy in the chair.)

FREE CONFERENCE COMMITTEE.

Senator Cofer offered the following:

Mr. President: I move that the Senate refuse to concur in the amendments made by the House to Senate Bill No. 36 and that the Senate request the House to grant a free conference between the Senate and House on said bill and that the following be elected as the Free Conference Committee on the part of the Senate:

Senators Sturgeon, Vaughan, Meachum, Ward and Peeler.

Senator Ratliff moved the previous question on the motion, which motion being duly seconded, was so ordered.

The above motion was adopted.

SIMPLE RESOLUTION.

By Senator Warren (by unanimous consent):

Resolved, That whereas, Hon. James Young, member of Congress from the Third District of Texas, is now at the bar of the Senate chamber, that the privileges of the floor be given him and that he be invited to address the Senate at this time.